

GOVERNMENT OF INDIA
MINISTRY OF
LABOUR AND EMPLOYMENT

SOME PAPERS ON WAGE POLICY

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PREFACE

Wages constitute one of the main issues affecting industrial relations. The major recommendations on Wage Policy were made in the Report of the Committee on Fair Wages in 1949. Since then, we have entered an era of planned development. Such planning brings in its wake problems of capital formation, production, distribution etc., all of which have a bearing on the determination of wages. It, therefore, becomes necessary to elaborate the principles first.

The basis of the Fair Wages Committee's recommendations still holds. These recommendations, however, have to be interpreted under present day conditions. An attempt in this direction was made by the Study Group on Wages appointed by Government. Papers prepared by the Group on topics selected for initial investigation were discussed at the last session of the Indian Labour Conference. The Conference felt that these would provide a useful background for wage fixing authorities all over the country.

The Labour Ministry have, therefore, decided to give wider publicity to these papers along with the decisions of the Indian Labour Conference on them. Recommendations on wages and social security, rationalisation and other allied topics included in the First and the Second Five Year Plans have also been reproduced. Appended in the end is an extract from the latest Supreme Court judgement on revision of wage structure in a given industry.

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सत्यमेव जयते

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CHAPTER I

Some general principles in the determination of Industrial Wages in India

General

An important issue which has been agitating the public mind in recent years is the question of wages. Considerable thought has been devoted to this subject by Government as well as employers' and workers' organisations. The problem of wage determination cannot be considered in isolation from the larger economic and social background obtaining in the country. A well conceived wage policy should be designed to secure (a) continual improvement in workers' living standards, (b) reasonable returns for the employers and (c) the economic and social objectives of the community. These are inter-dependent considerations and there is, in theory, no antagonism between them at least in the long run. But, experience has shown that in the delicate balance between fair wages to workers, fair profits to enterpreneurs and fair prices to consumers, the workers are often left behind, mainly because of their weak organisation; and, not infrequently, it has been said that the interests of consumers or the community also go unrepresented. In this country, wage decisions in the past have followed more or less the strength or weakness of one party or the other in putting up a case. Such a situation necessitates active Government intervention to protect the interests of the weaker party. Even otherwise, in a planned economy such as ours, a certain degree of wage regulation by the State becomes inevitable as an integral part of planning itself.

It is necessary that wage fixing authorities are guided by certain well laid principles agreed upon as fair and not by arguments raised in the course of unequal and individual bargaining. This is possible where all the concerned parties are allowed a fair share in the process of decision making. The machinery of tri-partite wage boards is intended to fulfil this long felt need. Such a wage board for the Cotton Textiles Industry has already been set up. Establishment of similar boards for other industries is under consideration. In order to ensure that the decisions of wage boards are uniform as far as possible, it is necessary to lay down broad principles of wage determination which will be applicable to all wage earners irrespective of the industry in which they may be placed. In what follows, an attempt has been made to provide a framework within which the wage boards can draw up their recommendations for individual industries.

Historical Background

Payment of fair wages to labour was one of the cardinal recommendations of the Industrial Truce Resolution, which was accepted by Government in their Statement on Industrial Policy issued on 6th April 1948*. Following that acceptance, Government appointed the Committee on Fair Wages which was a tri-partite body and included, besides Government representatives, eminent industrialists and labour leaders. The Committee submitted a unanimous Report, setting up for the first time, criteria for wage fixation and progressive improvement of the wage structure. Following this Report, Government introduced in the Constituent Assembly Legislative the Fair Wages Bill whose provisions were closely modelled on the recommendations of the Fair Wages Committee. The Bill, however,

* Government's Industrial Policy Resolution of 30th April 1956, besides reiterating the need for raising workers' living standards and efficiency, urges joint consultation between management and workers and increasing participation of workers in the common task of development.

lapsed on the dissolution of the Constituent Assembly and was not taken up later. The recommendations of all subsequent committees and tribunals have, however, been governed largely by the concepts laid down in the Fair Wages Committee Report. The case for a fair deal to labour was strengthened when the Indian Constitution was adopted. Article 43 of the Constitution lays down as one of the Directive Principles of State Policy that the State shall endeavour to secure to all workers "a living wage" and "conditions of work ensuring a decent standard of life". The acceptance of a socialist pattern of society as the objective of State Policy and the Second Five Year Plan which has been drawn up in pursuance of that objective have given further fillip to the cause of fair wages in the recent past.

The 'Minimum Wage', the 'Fair Wage'and the 'Living Wage'

The Committee on Fair Wages outlined three stages in the process of wage evolution based upon the needs of workers and the capacity of the employer. According to the Committee, "Minimum Wage" is an irreducible amount considered necessary for the sustenance of the worker and his family and for the preservation of his efficiency at work. The "Living Wage", on the other hand, is the ideal which would enable the earner to provide for himself and his family, not merely the essentials of life, but also a measure of comfort. Between these two limits is the "Fair Wage", the floor for which is set by the minimum wage and the ceiling by the capacity of the industry to pay. Its actual determination would be further governed by the productivity of labour, prevailing wage rates in corresponding places and also the importance of the concerned industry in the economy of the country. These different wage concepts, by their very definitions, are not rigid and gain meaning only as related to a particular place and time. Thus, what would now be considered a living wage for Indian conditions may not even satisfy the minimum wage requirements in countries with larger per capita income. It may even correspond to what might be considered as the "Minimum Wage" in India itself at a future date, when the standard of living of the average Indian would have considerably improved. It is, therefore, important that these limitations of the definitions are always kept in mind by wage determining authorities.

Minimum wage fixation

The fixation of a minimum wage is a simple task as compared to the fixation of a fair wage. The yardstick used for fixing the minimum wage is the cost of a monthly budget for a hypothetical, average working class family—a budget to meet minimum standards of food, housing etc., recommended by nutrition and other experts. Allowance is also made for certain requirements like medical facilities considered essential for the maintenance of the workers' efficiency. Calculation of wages at this level is essentially need-based. It was to meet the minimum needs of the worker and eradicate the evils of "sweating" that Government enacted Minimum Wage Legislation in 1948.

Fixation of Fair Wages

The settlement of fair wages, however, is a complicated process and has to be based on a detailed study of multiple factors including, *inter alia*, paying capacity of the industry, wage differentials and the social objectives of the community. These considerations require further elaboration.

It is difficult to define industry's "capacity to pay". As pointed out by the Fair Wages Committee, it would be wrong to determine this on the basis of the capacity of a particular unit or the capacity of all industries in the country.

Industry's capacity to pay

The relevant criterion should be the capacity of a particular industry in a specified region and, as far as possible, the same wages should be prescribed for all units of that industry in the region. As regards the measure of the capacity, it will have to be decided after allowing for a fair return on capital and remuneration to management and a fair allocation to reserves and depreciation so as to keep the industry in a healthy condition. In these matters, no rules can be drawn up for uniform application to all industries in different local areas, especially when the age of the machinery installed in different industrial units may be different. These factors will certainly affect wages but, at the same time, it is necessary to see that wages fixed after taking into account these considerations should not be very much out of line with wages in other industries in the specified region. Wide disparities often lead to avoidable industrial unrest.

Wage Differentials

Wage differentials, again, are a necessary concomitant of the wage system in modern industrial organisation and have been recognised as such in all countries, irrespective of their political and economic background. The differentials have to be worked out according to the degree of skill required, the strain involved, the mental and physical requirements for doing the work, the disagreeableness of the task and so on. They should be adjusted in such a manner as to provide incentives to workers for advancing their skills. When all this is stated, it is still difficult to arrive at the quantum for a differential between two jobs. For this, it would be necessary to evolve a standard occupational classification with the job content for each occupation. The I.L.O. Team of Productivity Experts who came to India in 1952-54 felt that 40% of the pay roll in Indian plants had been established by awards of industrial courts without the aid of work measurement or job evaluation; according to them, this resulted in anomalies blurring the relationship between earnings and work performed and had an adverse effect on incentives. The I.L.O. team had, therefore, recommended a thorough study of the relative levels of wages within each industry on the basis of a sound system of job evaluation. It is, however, necessary to bear in mind that in any attempt to re-draw wage differentials, employees everywhere attach great importance to prevailing differentials, be they scientific or not and often exercise pressure to maintain those differentials. A scientific approach to the determination of wage differentials will not, therefore, be sufficient in itself, if it does not carry with it a measure of social acceptance. What is really called for is a pragmatic approach supported, wherever possible, by scientific considerations and the active participation of employers and the employed in working out and implementing a wage differential scheme.

Payment by results

In this context of wage differentials, the system of piece rates has a number of advantages over time rates. The latter have no direct relationship to the quantity and quality of output produced or service rendered. Piece rates, on the other hand, create an explicit link between additional effort and larger earnings. Moreover, they are free from the disturbing influence of time and make possible a comparison of wage levels, productivity etc., between different units and regions. The Second Five Year Plan has also recommended the introduction of piece rates or payment by results in areas where at present this principle does not apply. The system of payment by results should be supported by adequate safeguards for workers, the main guarantees being a minimum (fall back) wage and protection against fatigue and undue speed up. In other words, on the one hand, the system of payment by results will have to be supplemented by a guarantee of a minimum quantum of work and employment. On the other, there will be need to ensure that the system does not work to the detriment of the health of workers. This could be done in either of two ways viz., either by

placing a limit on the earnings of an individual worker, that they shoul not exceed the average wage by more than a given percentage or by working out piece rates in such a way that they prove to be disincentive after the worker crosses a safe maximum output. One advantage behind a system of payment by results is that productivity increases are automatically reflected in increased earnings and there is no room for arguments about the relative growths in wages and productivity. The system, however, has its own limitations. The main difficulty lies in coming to an agreement with the workers on wage rates for a given output. The advantage of the system is greatest where the products and work processes are standardised and improvement in production can mainly be brought about in the speed with which production is carried out. Where the products and work processes are not standardised, difficulties arise in making adjustments for variations in quality, type of machine and type of product. Moreover, when piece rates are sought to be applied to men whose value lies in their years of acquired skill, it would seem only fair to relate the reward to their technical knowledge and know-how rather than to actual output. Even with these limitations, however, there appears to be considerable scope for extension of direct financial incentive schemes to increase productivity all-round.

Wage Policy and the Socialist Pattern

Paying capacity and wage differentials apart, the determination of fair wages has to be given a direction consistent with the pattern of society envisaged by the community. It is to be a socialist society, where there would be full employment and growing prosperity as a result of increasing industrial production and productivity. A wage policy to facilitate the growth of such society has both its economic and social implications. From the purely economic view point, it has to avoid exerting inflationary pressures or pressures on balance of payments, promote productivity and facilitate savings and capital formation. On the social side, it must move in the direction of securing a reduction of inequalities in income and wealth and a more even distribution of the national product. This problem of reduction in inequalities has many aspects viz., inequalities as between workers and employers, between workers in an industry and the community at large and among workers themselves. While wage policy has to be directed towards lessening of the gap between the top wage and the lowest wage, this has to be brought about by raising wages at the lowest level and not by reduction of higher wages. The grant of the same flat rate dearness allowance to workers in all income groups, dearness allowance at a rate proportionately decreasing as income increases, all have this effect viz., to benefit workers with low wages more than those with higher wages. A progressive increase in wages at the lowest levels may also create a favourable condition for introducing standardisation of wages in the different industries.

In the determination of wages, it is possible that the economic and social objectives might, at times, clash. In trying to reconcile them, it must be remembered that economic efficiency is both a result and an essential condition for the satisfaction of legitimate social aspirations. People do not put forward their best unless they get as reward for their work what the current social and political climate dictates as fair. At the same time, an effort to push social objectives beyond what economic considerations warrant in the short run can only lead to disillusionment or a self-frustrating scramble. However, in all countries, wage determination is more and more being governed by social considerations. As pointed out by the Bank Award Commission, labour's "clamour for a fair deal must be appreciated and considered in the background of the social and political climate that prevails in the country today". Moreover, there is also the practical consideration viz., the need to maintain worker satisfaction and industrial peace in the Second Plan period. It is

true that factors which have a bearing on the maintenance of industrial peace are many, but, there is no doubt that the most important among them are wages and matters related to wages.

Labour's contention for a wage increase-productivity

It has been urged on behalf of labour that real wages continue to remain around pre-war level, which was just a subsistence level. It is further pointed out that productivity per worker has gone up and that there has been a large increase in industrial production as compared with the corresponding increase in industrial employment. Again, it is stated that the volume of profits has gone up with the consequence that the acceleration in economic activity has only benefited the "non-wage-earning" class. This is the line of argument advanced by the workers' unions in asking for a wage increase. The argument that productivity increases may result as much from a greater or more effective use of materials and equipment as from increased efficiency of the workers does not carry conviction with them, because workers all over the world consider that they have a claim on sharing the benefits of increased productivity whatever be the cause thereof. This being the case, it is necessary that the benefits of all productivity increases should be shared in fair proportion between employers, workers and the community. This would mean that wherever the workers' claim regarding productivity increases without corresponding wage rises is borne out by facts of the case, there would be a *prima facie* case for considering a wage increase. Even assuming that the workers' claim for a wage increase is justified to some extent, it is difficult to see how they could be fully compensated for every rise in productivity. In a country where the demands for capital formation are heavy and will continue to be so for quite sometime to come, the workers will have to be content with a wage increase smaller than warranted by the increase in productivity. At a time when all-round austerity is called for, it is fair to expect the workers to contribute their share to the sacrifice. The argument for capital formation cannot, however, be carried too far to prevent any wage increase whatsoever. The proposition that wage increases will transfer funds from the enterpreneur class to the working class thereby curtailing investment and capital formation and increasing consumer spending is not always well-founded. It must be recognised that increased wages would lead to increased production and productivity and thus to increased profits, both by raising the efficiency of workers and by giving incentive to the employers to organise production more economically. Productivity increases are as much the result of wage increases as they are the cause thereof.

Capital Formation

Employment

An important objective of the plan is the creation of additional employment on a substantial scale. This often raises the question whether the working class should gain by way of more of them finding employment rather than by an increase in the earnings of those already employed. The reasoning underlying this antithesis is that the higher the rates of wages that have to be paid to those already employed, the less is the possibility of an increase in the numbers employed. To assume that there is always such an antithesis, however, would be to take too narrow a view of our objectives. While employmen has, no doubt, to be expanded, it cannot be argued that every wage increase would react adversely on employment. Nor is there any real gain in increasing the number of discontented employees. Each employed worker should be assured and paid a fair wage. A easonable increase in the present level of wage rates can act in a number of ways. It will enable the worker, both physically and psychologically, to put in greater effort and raise production and productivity. The employer, for his part, may be expect-

ed to organise production more efficiently in order to make up for the increased wage cost. In fact, if the experience of industrially advanced countries is any guide, pressure of the unions for wage raises has always been a powerful factor in bringing about improvements in technological efficiency. As long as wage increases are reasonable, there is, therefore, no reason why higher wages and more employment may not go together.

Inflation

Among the considerations to be borne in mind in deciding on the merits of wage increases is also the question of inflation. Here again, no hard and fast rule can be laid down as to when and whether wage increases are inflationary or not. It is only by an examination of specific cases that any judgement in this regard can be formed.

Social Security Contributions

A review of social security measures is relevant in a study of the possible effects of wage increases, because social security contributions affect wage costs as well as the funds immediately available to workers for consumption expenditure. The question of increasing the contributions and benefits under social security schemes can be decided upon only after taking into account the wage levels of workers to whom the increased contributions are to be made applicable. In this context, it is necessary to distinguish workers drawing minimum wages from those receiving higher wages and to see that social security schemes do not make inroads into the minimum wage. Where, however, the introduction of new social security measures or improvement of existing ones is considered imperative, the wages of the worker should be raised to a level which will ensure the worker a residue of minimum wages after his contributions to the social security measures are made out of his total pay packet. Correspondingly, the benefits a worker gets under social security schemes must be allowed for in reckoning the requirements of a minimum wage.

Fringe Benefits

Employers at times provide their workers with housing, education for workers' children, canteen and recreation facilities and so on. These "fringe benefits" which are not the result of compulsory legislation, vary from employer to employer and no generalisation as to their nature and content is possible. Available information shows that as compared to total per capita average earnings, the average money value of concessions granted to factory workers is not very significant. The fringe benefits, wherever they are made available, should be considered as a part of the real wages of the worker where they relate to goods and services which enter into the worker's basket. The suggested procedure should, however, be adopted only with the consent of the community of workers, because goods and services which they are none too keen on consuming cannot be forced on them and their value deducted from the total wage payment which they are entitled to.

General

It will be seen that wage determination is influenced by a number of factors, economic as well as social, inter-acting between themselves. With the development of the social conscience of the community, however, the social and ethical implications assume primary importance. At the same time, in a planned economy, wage policy is not a matter of exclusive concern to workers and employers only. The wider considerations of planning for the benefit of the community as a whole have also to be borne in mind. It is against this background that wage determination will have to be undertaken.

CHAPTER II

PRINCIPLES OF WAGE FIXATION

(A Study of Industrial Awards)

"The function of conciliation and arbitration," according to the International Labour Organisation, "is to establish a compromise between the interests of the parties to the dispute and create a new basis for their mutual relations—that is to say, to make law and not, as in the judicial settlement of dispute on rights, to interpret it." In this function of making law, the industrial tribunals in our country have succeeded in fair measure and a good deal of case law on a fairly uniform basis has been built up regarding wages, dearness allowance, bonus, retrenchment, leave etc., largely as a result of the functioning of the Appellate Authority. This study attempts to analyse the salient features of the industrial awards given up-to-date in so far as they relate to wage matters and to take stock of the case law built up thereon.

The industrial awards themselves may be broadly classified into two groups viz., (a) awards which stand out by themselves without supporting cases and (b) awards which have a number of precedents and follow-up cases along similar lines. It is the latter group of decisions which go to build up case law over a period and it is out of this group that representative cases have been quoted in this chapter. Even among the awards quoted, a large number relate to decisions of the Labour Appellate Tribunal and occasionally of the Supreme Court, because it is these decisions which have generally guided lower tribunals and courts in giving their awards on a uniform pattern under similar circumstances.

While exhaustive source material in respect of industrial awards can be found in the original awards themselves, there are a number of periodicals like the Labour Appeal Cases, the Labour Law Journal, the Industrial Court Reporter (Bombay) and so on which report the more important cases. There are also various private publications containing digests of Labour Law cases. The first official attempt at an analysis of tribunal decisions was made by the Labour Bureau, whose publication "Industrial Awards in India—An Analysis" covers the period 1939-1950. Awards made in the subsequent two or three years were studied in a note prepared by the Planning Commission for official use. The present study is largely based on these two official publications and subsquent awards as reported in the Labour Law Journal.

Minimum Wage, Fair wage and Living wage : Regarding wages, the tribunals have generally followed the principles laid down in the Fair Wages Committee's Report. The Committee recommended that the wages of an industrial worker must be such as would enable him to have not merely the means for subsistence of life but also for the preservation of his efficiency as a worker. For this purpose, he must have the means to provide for some measure of education, medical requirements and amenities. This is the minimum which he must have irrespective of the capacity of the industry or his employer to pay. Thus, the floor level of wages is to be determined keeping in view these considerations. According to the Fair Wages Committee, the theoretical upper limit is provided by the concept of the 'Living Wage'. The 'living wage,' however, could be regarded only as an ideal or a goal and the actual

wage fixed would have to be based on the capacity of the industry to pay. This paying capacity has to be worked out not for an individual unit nor for all industries in the country, but on an industry-cum-region basis.

The goal of a living wage for the worker has gained strength from the tribunal decisions. The Labour Appellate Tribunal have expressed the view that "with the socialistic pattern of society the living wage is probably nearer fulfilment than ever before, even as an expanding ripple gently reaches the bank" (1955 II LLJ 38). The existing wage structure, however, is still far from the living wage concept and besides, displays a lack of uniformity. A considerable margin has been noticed between the top wage and the lowest wage and the raising of wages at lower levels by various tribunal decisions has somewhat helped to narrow down this gap.

Minimum Wage : The concept of minimum wage for the worker is now absolute. In the dispute between Rajwani Transports Ltd., and their workmen, the Appellate Tribunal upheld the decision of the lower tribunal that paying capacity was irrelevant in the matter of minimum wage fixation. (1951 I LLJ 624) In fact, no external factor is allowed by the tribunals to interfere with the payment of minimum wages. For instance, availability of plenty of labour for service on low wages and the fact that the employer is a non-profit organisation have both been brushed aside as not being relevant. (1953 II LLJ 495) Again, lack of work is no reason for denying minimum wages to piecerate workers. (1953 II LLJ 610) Similarly, in the case of Bombay Mutual Life Assurance Society Ltd. v. their workmen, the tribunal took the view that the "expense ratio" under the Insurance Act could not affect the payment of minimum wage. (1956 I LLJ 149) The elementary requirements of workers are the same irrespective of the industry in which they are employed. (1954 II LLJ 341).

The principles of minimum wage determination were first discussed in detail by the Labour Appellate Tribunal in the Buckingham and Carnatic Mills Case. (1951 II LLJ 327) In determining the actual quantum of minimum wages, the Tribunal was guided by the standards recommended by different authorities in the matter of food, clothing, housing, fuel and light and miscellaneous items and the findings of family budget enquiries in the locality regarding the percentage allocation of expenditure on these items. The minimum wage was worked out on the basis of a family of 3 consumption units, a figure which has not always been uniformly adhered to. The quantum of minimum wage in a particular locality is generally worked out by the tribunals on the basis of independent data and along the above lines. Where such data are not available, the minimum prevailing in the same or similar industry and in the same or neighbouring locality is considered. For instance, in the dispute between the Kanti Cotton Mills Ltd., and their workmen, the industrial tribunal referred to the lack of data and fixed minimum wages for the operatives on the basis of the prevailing level of wages in other concerns in the locality. (1952 I LLJ 261) Sometimes, the scale awarded is the same as the one recommended in the very recent awards.

The award of minimum wages for any particular group of workers does not prohibit them from advancing claims for wage increases or employers from granting the same if they so desire. (1953 II LLJ 616)

Wage Differentials : While the minimum wage thus fixed corresponds to work put in by the lowest paid unskilled worker, wages for semi-skilled and skilled categories are to be fixed so as to reflect reasonable wage differentials. That such wage differentials should be based, not merely on historical factors and custom, but on the training

required, skill, experience, efficiency, responsibility etc., has been generally agreed to. While some adjudicators have merely fixed the minimum basic wage for the least skilled worker and left the determination of wage differentials to negotiations between the employers and the employees, others have broadly classified workers into three categories, unskilled, semi-skilled and skilled and fixed separate rates group-wise. In Mcleod & Co. Ltd. v. their workers, it was decided that work which was more arduous, intricate and varied and required a higher degree of intelligence, alertness and skill was entitled to better scales of pay. (1953 II LLJ 544) The tribunals have preferred the system of grades also as providing incentive for workers. Supporting this system, the Appellate Tribunal have stated, "This system would provide a good incentive to new hands engaged to improve and acquire greater efficiency in their work." (1953 II LLJ 508). Division of staff into grades should be a long-term arrangement consistent with the nature of work and responsibilities of the employees. (1953 II LLJ 776).

Equal pay for equal work : Equal pay for equal work is recognised. Expressing themselves in favour of equal pay for men and women workers, the Industrial Tribunal, Ernakulam stated, "Equal wages for equal work is a principle worthy of acceptance and is one accepted by the I.L.O." (1954 I LLJ 859) The principle is not confined to equality between the sexes. In Burmah Shell etc. v. their employees, it was ruled that "if any distinction be made between graduate clerks and non-graduate clerks for doing the same job, it may give rise to heart-burning and create industrial unrest". (1954 I LLJ 787)

Fair Wage : In the case of Fair Wages also, the Tribunals have been guided by the recommendations of the Fair Wages Committee and the award of the Labour Appellate Tribunal in the case of Buckingham and Carnatic Mills. That the capacity to pay should be determined with reference to the industry as a whole and not with reference to a particular unit thereof has been upheld in the above case. It was argued on behalf of workers that the mill had the capacity to pay a higher wage as compared to the other concerns and that the Tribunal should decide accordingly. The Tribunal, however, refused to be guided by the paying capacity of an individual concern, stating that this was likely to lead to unfair competition, "placing in the hands of a unit able to pay higher wages, a weapon to drive out its competitor-another unit of the same industry from the field". In subsequent cases also, fair wages have been fixed, taking into consideration the capacity to pay (determined on the industry-cum-region basis) and wages prevailing in the same or similar concerns in the locality. Thus, in Bihar, generally, the Industrial Tribunals have recommended the same wage rates as those obtaining in concerns such as the Tata Iron and Steel Co.

The Industrial Tribunal in the dispute between the Indian Cable Company and its employees observed as follows : "It is sufficient to say that there is no reason why the Indian Cable Co. should pay wages at lower rates than those paid by three important concerns of this town. In the interests of peace as well as on the ground of equity and justice, I decide that the Tata's scales of wages should be adopted....."

Long-term nature of wage settlement : Questions of remuneration are not static and there may be genuine cases for revision. At the same time, it has to be remembered that wage arrangements cannot be lightly disturbed. Normally, a basic wage once fixed, should stand for a reasonable period of time unless some substantial change of circumstance intervenes. In the dispute between Andhra Cement Co. Ltd., and their workmen relating to a revision of the incremental grades, the Industrial Tribunal, Vijayawada held that "in view of the settlement

between the parties a while back, the time to review the settlement has not yet arisen". (1952 I LLJ 111) Moreover, the increase in wages is recommended only in cases where the concern or the industry has been able to stabilize its paying capacity at a higher point. Revisions in the light of profits made in a particular year are not advocated. (1952 I LLJ 507) The long-term nature of a wage settlement was well brought out by the Appellate Tribunal in Aspinwall & Co., Ltd. v. their workers, where they held that once the basic wage is fixed in a manner which does not suggest any unfairness, it should stand for a reasonably long time, irrespective of the fact whether the original fixation was effected through arbitration, conciliation or adjudication. "Even in the case of an ordinary agreement, if it is arrived at, not between the employer and the industrial workers, but between the employer and a *bonafide* workers' union, *a prima facie* presumption should, in our opinion, be taken to arise that what was agreed to between the parties was considered fair by them...and should not be allowed to be lightly disturbed within a short period of time....."(1955 II LLJ 270)

Wage claims for strike periods and lock-outs : Wage claims for strike periods and lock-outs have been decided by the tribunals on the basis of a uniform principle viz., that the party declaring a strike or lock-out should not be made to suffer if the strike or lock-out was decided upon on reasonable grounds. In deciding the reasonableness thereof, various considerations like whether the strike or lock-out was legal, justified, occasioned by an unfair labour practice or provoked by the actions of one party or the other and so on have been taken into account. Thus, it was decided in Hanuman Jute Mills v. their workers (1953 II LLJ 684) that workers were not entitled to wages during period of lock-out when lock-out was justified. For a decision in favour of workers in the matter of wages for strike period. where strike was considered legal and peaceful, reference may be had to Ambica Jute Mills v. their workers. (1954 I LLJ 835) In another case it was decided by the tribunal that workmen were entitled to full wages for the strike period where the strike was not illegal or unreasonable, though strike demands were negatived subsequently during adjudication. (1954 I LLJ 859) In yet another case, workers were awarded half wages for the strike period where the strike was considered "a bit unreasonable."

Basic Wage and Revision of Base Period : Basic wages are usually fixed in relation to the cost of living index obtaining in a specified base year. There is no uniformity in the choice of the base year, though the pre-war year of 1939 is predominantly used. It is best to leave existing arrangements in this respect undisturbed for the present till a uniform revision of basic wages is effected on the basis of a more appropriate base year. Thus, in the Burmah Shell Oil Co. case, the Appellate Tribunal rejected a plea for stabilising basic wage for unskilled workers at cost of living index 180 (with 1939 as base) on the ground that such a step would lead to anomalies and consequent industrial unrest when the general wage structure obtaining in Madras was based on the index 1939 = 100. (1953 II LLJ 237) It is always possible to adjust the dearness allowance to correspond to the base year in relation to which basic wages are fixed; after all, it is the total pay packet which matters to the worker. When the benefits of provident fund, state insurance, lay-off, retrenchment relief etc., are calculated on the total emoluments viz., basic wage plus dearness allowance, and it has become a settled principle to calculate bonus only on basic wage, the tribunals feel that consolidation of dearness allowance with basic wage can have no practical advantage... on the other hand, it would upset the established differentials and would create unnecessary ferment all over India for refixation of wages which would be without any real merit or justification ....." (1955 LAC 99-102)

Dearness Allowance

With the system as it is, any rise in the cost of living beyond the base period level has to be compensated for by dearness allowance. It has thus been ruled that rise in the cost of living index is a subject more appropriate to the question of dearness allowance and cannot be a ground for a wage revision. (1952 LAC 56)

Dearness allowance is usually fixed either unrelated to the cost of living index or linked to the cost of living index. Between these two methods, there are more variations. Where the dearness allowance is not related to the index, it can be either a flat rate for all income groups or a slab rate system where the amount of the allowance varies according to income groups. Similarly, where the allowance is linked to the cost of living index, it could be either (a) a flat rate irrespective of income groups, (b) on a scale graded according to income groups or (c) at rates diminishing as the index rises. It is difficult to say which of these systems has been advocated more frequently by the adjudicators over the past 3 years. The general policy has been not to disturb the prevailing system except in exceptional cases. The pros and cons of the different systems have been discussed in detail in literature on wages and we are not repeating them in this brief analysis. A study of the awards, however, shows that adjudicators and tribunals have laid down a particular system in preference to others after taking into consideration various factors such as the extent of neutralisation aimed at, the capacity of the industry or a concern to bear the financial burden, the practice obtaining in similar concerns in the locality, the past practice in the concern itself, the feasibility of linking the allowance to a cost of living index number etc. In some cases, the adjudicators have had to recommend a flat rate out of necessity due to absence or unreliability of cost of living index numbers. The choice of method would thus appear to be dictated by individual circumstances. Generally speaking, it would appear that a flat rate unrelated to cost of living is more suited to small concerns and a rate linked to cost of living index to larger concerns. Thus, in Madras Press Labour Union v. Artisan Press Ltd., Madras, the Appellate Tribunal delcared, "As observed by the Rao Court of Enquiry, simplicity and uniformity dictate a single rate for all. Taking into consideration the past practice obtaining in this concern as well as in many of the small-scale industries in West Bengal as well as some other States, we think that the tribunal has taken a correct view in maintaining the flat rate of dearness allowance". (1953 II LLJ 508) On the other hand, in the Indian Oxygen and Acetylene Co. Ltd. v. their workmen, it was pointed out that there had been several awards against engineering companies in Bombay in which dearness allowance had been linked directly to the cost of living index number and concluded that it was a more scientific system. (1953 II LLJ 711)

The two main considerations which have been recognised as governing the quantum of dearness allowance are the capacity of the concern to pay and the extent of rise in cost of living. (1953 II LLJ 845) Unlike in the case of minimum wages, rigid payment of dearness allowance to allow for complete neutralisation is not imposed irrespective of capacity to pay. Thus, in Brahmachari Research Institute v. their workers, the tribunal felt, "This is no doubt inadequate in the present times. But, considering the bad financial plight in which the company has landed itself, I cannot entertain any claim for the increase...." (1954 II LLJ 224) For the same reason, the Bombay Industrial Court in its award relating to the Bombay Municipality rejected the claim of the employees to be paid dearness allowance on the cotton textile scale. The argument was that the Municipality was a body in which the profit-making motive was absent and its capacity to pay

was limited. Such instances can be multiplied. On the other hand, it has to be remembered that the concept of an irreducible minimum wage will lose all meaning if, after its fixation, any rise in the cost of living is not neutralised at least to a reasonable extent. This was perhaps why, in the National Tile Works, Feroke v. their workmen, the Appellate Tribunal held, "In this concern the minimum basic wage is too low and hence it has necessarily to be supplemented by dearness allowance with a view to make a near approach to the subsistence level. It is true that the financial position of the concern has to be taken into consideration when fixing the dearness allowance, but not so that the dearness allowance falls below a certain level."

Extent of Neutralisation : Complete neutralisation of the rise in the cost of living is not generally favoured by the tribunals. On the one hand, such neutralisation is stated to yield figures which are not realistic and which have to be toned down to make them realistic. The Nagpur Textile Enquiry Committee have observed : "dearness allowance need not necessarily be such as to neutralise completely the whole of the rise in the cost of living...owing to roughly 25 per cent of total expenses, being of the nature of a fixed charge, the scale of dearness allowance which we are recommending would...effectively compensate for practically the whole of the rise in that portion of the expenditure which is susceptible to short period changes in the cost of living". A rigid line cannot be taken on this view since the market basket of the worker itself changes over a period. On the other hand, a view has been expressed that the worker must share with his fellow citizens the burden of the increased cost of living. This view is reflected in the Nellimarla Jute Mills case where the Appellate Tribunal stated, "We think that the rate fixed by the tribunal is reasonable for it still leaves about 34 cent burden of the higher cost of living on the workmen." (1953 II LLJ 515) Moreover, a cent per cent neutralisation, it is feared, will lead to an inflationary spiral. This view was expressed by the Appellate Tribunal in the Buckingham Mills case (1951 II LLJ 314) and the Burmah Shell case. (1951 II LLJ 360) The principle has been followed in subsequent awards by tribunals. There is, however, no specific percentage which is considered appropriate to all cases. Even the Rege Committee which recommended a 50% neutralisation pointed out that where there was capacity to pay more, the minimum might be exceeded and it was for the tribunal to fix the rate.

The extent of neutralisation is fixed by the tribunals after taking into consideration various factors. Each individual case is decided on its own merits. As stated by the Appellate Tribunal (1952 II LLJ 615) "dearness allowance has to be fixed taking into consideration, the total emoluments of the workers ; that in concerns paying a low basic wage a high dearness allowance may be necessary and in concerns paying a high wage necessary adjustments may have to be made to dearness allowance; that in considering the total emoluments, the value of amenities like free quarter, water and light will also have to be considered". Sometimes, the tribunals adopt a known scale in a concern or industry located in the same area and having comparable capacity to pay. It does not matter if the industry thus chosen is different from the one where the dearness allowance has to be fixed, since the considerations governing dearness allowance have nothing to do with the nature of industry. "There is nothing wrong in the dearness allowance of a cement concern being linked to the Ahmedabad textile scale, for in Bombay itself, engineering concerns have their dearness allowance fixed in proportion to the Bombay textile scale". (1953 II LLJ 847)

Subject to these principles, a stable policy is adopted and quick revisions of dearness allowance and adjustments to minor fluctuations in the cost of living in the cases where the system is not automatic are discouraged. In the

Kanpur Omnibus Service case, the Appellate Tribunal observed, "The cost of living is subject to occasional variations of a minor character and fluctuations at intervals and in our opinion the period of 18 months is not long enough to justify the question being reagitated". This principle has found application in subsequent tribunal awards also.

BONUS

Until quite recently, whenever the workers made demand for the payment of a bonus, the primary objection raised by the employers was that bonus was an ex-gratia payment dependent on their good will and could not be the subject matter of adjudication proceedings. In some of the disputes, the adjudicators took a juristic view of the demand for bonus and held that the demand of the workers could be sustained only if it was proved that there was an explicit or implied contract between the parties. Such a juristic view, however, has not been taken by a majority of the adjudicators. In the Lahore Electric Supply Co. case, Mr. W. Cowley remarked, regarding bonus, "It is quite obviously not a legal right which can be enforced in a court of law.....On the other hand, there is equally no doubt that the advancement of economic thought and industrial relations had led to a state of affairs where the workers' claim for a share in the profits of industry may be legitimate and may have a certain moral and economic right". These initial doubts regarding the character of bonus payment have, over a period of time, given place to a settled set of principles determining its nature. As a result, bonus is no longer regarded as an ex-gratia payment or a deferred wage or a share in profits. A claim for bonus is now regarded as "a claim of right against an employer to enable the workers to make good at least to some extent the gap which is always found to exist between the wages being actually paid by the employer and a living wage...." (1956 II LLJ 724) Bonus partakes of the nature of wage payment by virtue of its being payment for work done. As stated by the Saurashtra High Court, ". . . the original ex-gratia nature of the payment of bonus has . . . come to mean a part of the legitimate remuneration". (1954 II LLJ 434) All the same, as pointed out by the Supreme Court, bonus is not a deferred wage, "because if it were so, it would necessarily rank for precedence before dividends." (1955 LAC 6) Again, bonus cannot be equated to profit-sharing, since it has been ruled that it must bear some relation to wages. "It is an attempt to shorten the gap between the living wage and the actual wage paid to the workmen. It must bear some relation to wages..." (1956 I LLJ 154)

Thus, bonus has now come to be considered a sort of additional income for workers. Though unpredictable in the size and timing of its payment, it often forms a sizeable proportion of the worker's total annual remuneration and is eagerly awaited by workers. Bonus disputes have predominated in the last few years among industrial disputes; this, in spite of the fact that principles governing the determination and payment of bonus are now fairly well-settled. Under the circumstances, the disputes mostly center round the detailed application of these principles to each individual case.

According to the Supreme Court of India, demand for bonus can be justified "(1) when wages fall short of the living standard and (2) the industry makes huge profits part of which are due to the contribution which the workmen make in increasing production. The demand for bonus becomes an industrial claim when either or both these conditions are satisfied." (1955 LAC 5) The term 'huge profiits' in the Supreme Court decision has been interpreted by the Appellate Tribunal to mean 'prosperity of the concern'. They have further explained, "it is not unreasonable to assume that all that the Supreme Court meant was that workmen, in order to entitle themselves to bonus, should contribute to earning profit by helping production."

The 'Available Surplus' Formula : Subject to these conditions, "bonus can only be claimed by the workers with reference to the trading result of the industry concerned for the period of the claim." (1953 II LLJ 451) The quantum of bonus payment is now determined on the basis of what has come to be known as the 'available surplus' formula, laid down by the Appellate Tribunal in the Full Bench case of the Millowners' Association. (1952 II LLJ 124) By this formula, the available surplus is determined after allowing for all prior charges viz., (a) depreciation according to income tax rates, (b) income-tax, (c) fair return on capital, (d) fair return on reserves utilized as working capital, (e) any additional amount required in excess of the depreciation for the purpose of rehabilitation, replacement and modernization of machinery. (1955 II LLJ 436) While this formula does provide for some elasticity in matters like return on capital so as to allow for differences in industries and concerns, as to certain other charges like normal statutory depreciation, it is so stated as not to be susceptible of deviations. By the various tribunal decisions, the onus for proving that there is an available surplus is now squarely laid on the workers. (1953 II LLJ 859) On the other hand, the employers have to prove to the satisfaction of the tribunals the prior charges claimed by them, by appropriate evidence. (1955 II LLJ 152)

According to the available surplus formula, after the residuary surplus is determined, "the quantum of bonus must depend upon the relative prosperity of the concern during the year under review..... the needs of labour at existing wages.....employees' efforts; and even when we have mentioned all these considerations, we must not be deemed to have exhausted the subject. Our approach to this problem is motivated by the requirement that we should ensure and achieve industrial peace. This can be achieved by having a contented labour force... .. and an investing public who would be attracted to the industry by a steady and progressive return on capital." In the dispute between Burmah Shell etc., Bombay and their workmen (1953 II LLJ 246), it was argued by the Appellate Tribunal that "Bonus must have some relation to wages and not to double or multiply it, for wages are not fixed solely on the capacity of the concern to pay. Care must also be taken to see that the bonus which is given is not so excessive that it creates fresh problems in the vicinities, that it upsets emoluments all round or that it creates industrial discontent and the possible emergence of a privileged class." The same tribunal had observed earlier in the case of Firestone Tyre and Rubber Co. (decision dated 15/7/1952 in Appeals (Bombay) No. 324 & 33 of 1951) that "whereas in this concern, the available surplus is inevitably large, there is always force in the contention that the bonus should be substantial although it must necessarily fall short of the stage where it may tend to become profit sharing." Though the quantum of bonus itself is calculated on the surplus available, the Labour Appellate Tribunal have not so far set down what proportion the bonus will bear to the available surplus. As the Fifth Industrial Tribunal, West Bengal pointed out, this has probably been "advisedly done, because no hard and fast rule can be formulated for this. It will depend on the company's financial position and also the future prospects." (1953 I LLJ 635) Moreover, in firms like Burmah Shell, Caltex and other oil distributing companies, the available surplus is usually very large and if bonus is to be declared on the basis of a fixed percentage of the available surplus, workers in these companies might receive a staggeringly large amount out of all proportion to their wages and also to the total earnings of similar workers elsewhere.

In practice, bonus is usually awarded as a multiple of the monthly basic wage or as a percentage of the total annual earnings. It is not possible to generalise and specify any typical or average level of bonus, because the number of months for which bonus is awarded varies in each individual case and depends upon the particulars affecting each case. It may, however, be stated that even in

cases of exceptionally large bonus, the amount paid does not normally exceed six months' basic wages.

The tribunal have felt that the nature of business and the part played by labour in earning of profit must be taken into account in awarding bonus. Thus where the business of a concern mainly consisted of import on indent basis of machineries for sale, the efforts of the employees in a small workshop maintained for replacing and repairing parts, in the earnings of profits of the concern were considered to be comparatively small. The tribunal, therefore, considered it not proper to grant more than roughly half the available surplus. (1955 II LLJ 238) In Burmha Shell etc. v. their workers, it was decided, 'The persons who by the sweat of their brow helped to produce the articles of use would naturally be entitled to greater consideration in the matter of bonus, than say, a workman who spasmodically operates a petrol pump; such distinctions must not be carried too far, but they are nevertheless factors which would rightly influence a tribunal in coming to a proper decision as to the quantum of bonus." Thus, while the lower limit to bonus is set by the surplus available, the maximum to be distributed is to be determined on the basis of other considerations.

Considerations other than those implied in the "available surplus" formula are considered irrelevant to the determination of the quantum of bonus. Reserve fund, if any, built from undistributed profits of past years should not be taken into consideration nor the fact that in past years concern paid bonus despite loss. (1955 II LLJ 25) In Muir Mills Company, Limited v. its workmen, it was held that payment of bonus by other concerns in the same place engaged in similar business could not be considered to be a criterion to direct the company to pay bonus to its workmen in the absence of available surplus during the year in question. (1955 II LLJ 29) To quote yet another instance, in Nellimarla Jute Mills Company, Limited case, it was pointed out that lack of practice in jute industry to pay bonus or historical cycles necessitating provision for uncertain future in jute industry were irrelevant to determine bonus payment. (1953 I LLJ 665) Ideas of social justice have been ruled as out of place, particularly when the Appellate Tribunal have themselves incorporated in their Full Bench formula the principles of social justice within appropriate limits. At a subsequent date, when the Appellate Tribunal themselves tried to import considerations of social justice in Muir Mills Limited case, the Supreme Court ruled on an appeal made to it, "Social justice is a very vague and indeterminate expression and no clear-cut definition can be laid down which will cover all the situations...the concept of social justice does not emanate from the fanciful notions of any particular adjudicator, but must be founded on a more solid foundation." (1955 LAC 7).

The question of eligibility to claim bonus has sometimes been raised before the tribunals. It was decided in Burmah Shell v. their workmen (1953 II LLJ 246) that it was wrong to say that no bonus was payable just because workmen of a concern do not actually manufacture or produce goods. In clarifying the point that bonus must not be altogether unrelated to effort, it was stated by the Appellate Tribunal that clerks or labourers in the oil companies were not excluded by the Full Bench formula. "Workmen who helped to market the oil... thus contributed to 'production' according to the concept of economists...and so they are clearly entitled to bonus." (1953 II LLJ 249) In another case, it was decided that management was under no obligation to distribute the amount set apart for bonus only to those who were "workmen" within the meaning of the Industrial Disputes Act. Both workmen and supervisory staff contributed jointly in raising profits and it was only fair that supervisory staff were also given some share in bonus. (Bharat Homeo Pharmacy, Lucknow v. Its Workmen).

It is now a settled principle that "workmen are entitled to a share of the profits only if they had a hand in earning those profits." (1953 II LLJ 523) Profits which the company earned unconnected with efforts of labour are termed "extraneous" profits and are excluded from the overall profits for determining the available surplus. Thus, in the Shalimar Rope Works case, it was decided that the company's profits had been increased by a fortuitous circumstance of a quite exceptional character and so a good portion of surplus had no connection with the productivity of labour. On the facts of the case, the rise in price of raw materials was due to the onset of the Korean War. (1956 II LLJ 372-374). A similar view was taken in the Nellimarla Jute Mills case. (1953 II LLJ 518). In another case, the Appellate Tribunal decided that the amount earned as interest on the investment was unrelated to the employees' efforts, and as such the workmen could not claim any share of these items. (1953 II LLJ 523).

While workers have put forward claims for inclusion of certain items on the income side of the balance sheet and exclusion of certain items from the expenditure side so as to swell the surplus, employers have advanced counter-claims in the opposite direction. The disputes have centred both round the items to be included or excluded and their magnitude. Questions like the rate of interest to be allowed on certain items, whether the assets and liabilities at the end of the year should be valued at cost price or market price, at wholesale or retail price-have all been argued before the tribunals. For instance, in the Muir Mills case, the tribunal declared that the bonuses for previous years remaining unpaid could not be debited to trading account of year in question; similarly arrears of personal wages for previous years could not be debited; expenditure in suits between rival claimants to management was not business expenditure and must be excluded from expenditure side for determining profit.

Bonus is paid to workers who contribute towards profits in a particular year and out of those profits. Thus, while entertaining a claim for bonus, the adjudicators concern themselves with the accounts of the company for the current year only.

It may be argued that the practice of deciding bonus on the basis of only the current year's accounts is rather unfair to workers. It may be stated that the workers cannot obviously share losses and that extraordinary profits in any year should be partially adjusted towards making up deficiencies in other years by creating something like a "loss reserve"

An arrangement of this kind has been incorporated in the agreement concluded on 27-6-1955 between the Ahmedabad Millowners' Association and the Textile Labour Association whereby the workers have been assured a minimum bonus to the extent of 4.8% (or 15 days) of their annual basic income for 5 years, irrespective of profits and losses. This has been made possible by providing for "set-off" according to which the mills which had to pay bonus to workers in spite of incurring losses would be compesated in any future year when they make profits. This provision envisages a ceiling of 25% (3 months) for the bonus payble in any one year by the mills which would otherwise have to pay more than 3 months' wages as bonus to their workers according to the Appellate Tribunal formula. As far as the tribunals are concerned, however, the profits or losses incurred in past years are not adjusted to nor any notice taken of the anticipated favourable or unfavourable turn in the financial position of the company.

In one instance, however, where the company had its own fund for "payment of bonus during years when there are no adequate profits" and the

company contended that the fund was not maintained for paying bonus during the years in which heavy losses were made, the tribunal decided in favour of workers. "In this particular case as I am of opinion that by payment of bonus from the fund especially set apart for the purpose, the financial resources of the company are not likely to be affected to a large extent, some amount should be paid as bonus to the workers." (1951 I LLJ 64) But, the tribunals themselves have never advocated the creation of any such fund and have stuck to the practice of calculating the 'available surplus' for each year separately. Thus, in the Nizam Sugar Factory case, the Appellate Tribunal ruled that the lower tribunal was in error in taking into account a sum of Rs. 3.93 lakhs from the previous year's profits while calculating bonus for 1949-50. (1952 II LLJ 386) In the case of Ganesh Flour Mills, it was argued by the management before the Appellate Tribunal that the profits of the company were likely to go down if Act XXXII of 1950 which authorised the coloration of vegetable ghee were brought into force. Rejecting the argument, the tribunal observed, "we may at once say that the last mentioned contention does not appeal to us, for in considering the question of bonuses for 1948-49, we have to proceed upon the profits of that year. Whether the profit in future years is likely to be less or not is not relevant to the enquiry." (1952 I LLJ 524).

Since bonus is paid to workers out of profits to which they contributed by their labour, in Government Porcelain Factory, Bangalore v. their workers, where bonus for 1950-51 had been granted by the company, the decision was made that bonus must be paid to the 14 employees who had been in service in 1950-51 but had beed dismissed subsequently and were not on the company's pay-roll at the time of bonus sanction. In another case, bonus was ordered to be paid to employees who had been dismissed for misconduct, because it was stated that bonus was payment for work done. In yet another case, worke s who were in service for only a portion of the year were held to be eligible to get proportionate bonus, except those who had been dismissed for misconduct involving financial loss to the company. (1953 II LLJ 237) Bonus being an amount payable from profit of the year for which it is claimed, it is now almost a settled rule that demand for past years' bonus should be rejected where accounts for these years are settled and such accounts, it has been held, should not be re-opened unless valid reasons are adduced to do so. (1953 I LLJ 708 ; 1954 I LLJ 21).

The rate of bonus is almost always linked to basic wages and not to total earnings. This is to maintain wage differentials. As stated by the Appellate Tribunal in the Burmah Shell case, "It has been the general practice to divide the available surplus given as bonus in terms of basic wages and that practice should not be disturbed ..Further the idea of dearness allowance being added to basic wage for bonus would disturb the balance of wage differentials. The wage differentials represent as between the workmen 'per se' a more correct measure of the value of the work that they do for the purpose of distributing bonus and the wiser method of distributing the 'available surplus' is to apply multiples based on wage differentials, in other words, on basic wages. A uniform principle of bonus in terms of basic wages would avoid many an anomaly and this should be the practice." (1953 II LLJ 246) Again, discussing this point in Shangrila Food Products and their workmen, the Industrial Tribunal, Bombay expressed their agreement with the view of the Appellate Tribunal in the following terms. "It is not right to deprive skilled labour of higher bonus on the basis of basic wages as dearness allowance is fairly the same for all workers ; that the Appellate Tribunal has consistently refused to allow bonus on the basis of dearness allowance as well". (1952 II LLJ 382) Exceptions are, however, occasionally permitted where circumstances justify. For instance where basic

wages and dearness allowance paid by the company were not properly determined on principles, the demand for bonus in terms of consolidated wages must be held to be justified. (1954 II LLJ 390) Again, this practice may be followed when the basic wages are unduly low and dearness allowance is comparatively high, the total being considered to meet the ordinary requirements of the workmen, on the ground that what was being paid under the denomination of basic wages was a misnomer and a good part of the dearness allowance paid should be taken in essence to be part of what ought to have been basic wages." (Appellate Tribunal in Stanvac. case 1954 I LLJ 488).

Certain types of concerns have sought to escape the payment of bonus under special reasons. When the Bombay Electric Supply and Tramways Co., Ltd. was taken over by the Bombay Municipality, the workers claimed that they used to get two months' basic salary as bonus every year and they were entitled to such payment even after the take over.

The Industrial Court, Bombay, however, held that as a consequence of the municipalisation of the undertaking, what might have been a legitimate claim on the part of the workers against the company which was run with a profit making idea was no longer so. The balance of the earnings derived from the working of the undertaking could now be more properly styled as a surplus and not as a profit. The comparison was made that in the case of Government railways, the surplus is transferred to the General Revenue. A different view has been expressed regarding a private non-profit-making concern. In Mcleod & Co., Ltd., (Secretaries, Tea Districts Labour Association) v. their workers, the tribunal took the view that the fact that the employers were not a profit-earning concern, could not stand in the way of bonus being granted to its employees. They might have only an income and expenditure account and not a profit and loss account; nevertheless, the excess of income over expenditure in the year in question was virtually the profit earned by the association and out of which bonus could be paid. Even in the case of electric supply concerns which are governed by the Electricity Supply Act which seeks to limit profits in the interests of the consumer, it has been ruled that there is possibility of having funds which without breach of provisions of the Electricity Supply Act (LIV of 1948) can be distributed as bonus on the lines of the available surplus formula and that the Act does not absolutely tie down the hands of the licensee in paying bonus.

Since the payment of bonus is related to the workmen's effort in relation to the profits earned the question has been posed on various occasions as to how bonus is to be distributed in the case of a parent company having various undertakings run at various branches. On this question, "the decided cases fall under two broad and distinct heads (A) and (B) as stated below :

(A) Those relating to companies which have branches in different parts of the country and where the nature of the business is the *same* in the head office and the branches. If they do business as a *single* undertaking and maintain a *common* profit and loss account and the head office directs the policy to be followed by the branches in respect of sales, purchases, captial expenditure etc., the profit or loss of the entire concern and not of a particular unit would determine the quantum of bonus to be awarded : vide But where a company had several Branches, one of which was at Lucknow and all did the same business, but separate accounts were kept at the Lucknow branch as regards capital and profit and loss, as if it were an independent unit, it was held in Pipe Mill Mazdoor Union, Lucknow v. Indian Hume Pipe Co., (1951 I LLJ 379) that the Lucknow branch must be regarded as a separate entity.

(B) Where there is a parent concern, but its undertakings at its various branches or factories are *different* then ordinarily each undertaking must be taken as a separate unit for determining the quantum of bonus unless the profits of all the companies are pooled together and there is *nexus* of integration to make the unit an integral part of another unit of the same concern.....Nexus of integration has been explained as being some essential dependence of the one on the other or some unity of purpose or design or some parallel or coordinate activity towards a common end without which the business of the one or the other could not be carried on to proper advantage". (1956 II LLJ 136 & 137) An extreme example of this kind of situation arose when employees of the British India Steam Navigation Co., Ltd. demanded bonus on the basis of the company's world profits. Giving its decision, the Appellate Tribunal observed, "It is a long call from the claim of some 270 tally clerks in Bombay to the world profits of this global organisation operating from England; it would be more realistic to discover the figures on an all-India basis or on a larger regional area and discover the available surplus from such figures; and only if that could not be done, then it would be permissible to take as a basis of calculation..... the world profits." (1956 II LLJ 175).

Bonus is a payment which has to be made to a group of workers as a whole. ".. ...profits are due to the cooperative effort of all employees and arise only from year to year and have been contributed to by the employees in that year." (1954 I LLJ 874) "The quantum of bonus cannot be fixed on individual basis or according to the responsibilities and work done by each employee.....to grant bonus to one section at a higher rate and to the other at a lower rate would be the reversal of social justice." In Cawnpore Chemical Works Ltd. v. their workmen, the Adjudicator, Kanpur stated that if certain employees in an establishment had to do extra work, they could be paid for that extra work in the form of extra allowances, but not in the form of additional bonus. (1952 II LLJ 79) Discrimination in the payment of bonus has been condemned by the tribunals. In the Minakshi Mills Ltd., etc. v. their workmen, where the company had paid three months' basic wages as bonus to one section of the workmen i.e., clerical staff and strongly opposed the giving of bonus to the non-clerical staff, the Appellate Tribunal observed that such "invidious distinction will have serious repercussions on the harmonious relations between the management and the labour and may affect the industrial peace." (1953 II LLJ 522) In another case, where the issue of Puja Bonus was involved, it was ruled that "no case has been made out for any discriminatory treatment between the employees in the Calcutta office and those of the mofussil offices in the matter of bonus." (1953 II LLJ 547)

All doubts regarding claim of workmen to be paid bonus out of dividend equalization fund have now been set at rest. The Appellate Tribunal observed in the Indian Vegetable Products Ltd. case that it would be contrary to the Full Bench decision if workmen should get the like amount as the share-holders when they are paid dividends out of funds which have been built up over the years to provide for payment of dividends in lean years and ear-marked for a particular purpose. In the Muir Mills case, the Supreme Court have finally ruled that "linking of bonus to dividend would obviously create difficulties. Because if that theory was accepted a company would not declare any dividends but accumulate the profits, build up reserves and distribute those profits in the shape of bonus shares or reduce the capital in which event the workers would not be entitled to claim anything as and by way of bonus". (1955 LAC 6) Similarly claims of workers to reserve funds transferred to profit and loss account have also been ruled

out. "To admit the claim for bonus out of the reserves transferred to the profit and loss account would tantamount to allowing a second bonus on the same profits in respect of which the workers had already received their full bonus in the previous year. The labour force which earns the profits of a particular year, by collaborating with the employers is distinct from the one which contributed to the profits of the previous years and there is no continuity between the labour forces which are employed in the individual concern during the several years. The ratio which applies in the case of the shareholders who acquire the right, title and interest of their predecessors in-interest does not apply to the labour force....."(1955LAC 7)

Since the available surplus formula is now the only recognised method of determining the quantum of bonus for any particular year, it has been ruled that acceptance by workmen of any bonus offered by a company *ex gratia* does not bar their claim for additional bonus for that year. Advancing the reasons for such a decision, the Sixth Industrial Tribunal, West Bengal, stated. "It has been recognised that the workmen are at a disadvantage in agreements of this sort, for they are not in a position to bargain with their employers on a footing of equality and very little choice is left to them, when the prospect of immediate payment of bonus is held out to the workmen and they are told that if they do not accept in full satisfaction what is offered they would get nothing until the question is determined by an adjudicator". (1954 I LLJ 363)

Restrictions on the payment of declared bonus have been held to be unjustified by Appellate Tribunal since a claim for bonus is itself a claim made by workers to make good, at least to some extent, the gap between the actual wages paid to them and the living wage. Under such a circumstance, "It is difficult to see how the industrial tribunal can force the workers to defer the enforcement of such a claim or even a substantial portion thereof....."(1956 II LLJ 724). Thus, when in the Lever Brothers case an appeal was filed against the Bombay industrial tribunal award under which ⅓ of the declared bonus was ordered to be invested in securities to be realised and amount paid to workers at a later date, the Labour Appellate Tribunal ruled against such deferred payment. After expressing its surprise at the deferment of bonus payment for a period of nearly 4 years, the tribunal said, "we find that a similar condition, for what was considered by the lower tribunal to be for the ultimate benefit of the workers, was incorporated in another award by ordering a portion of the bonus to be credited to the provident fund account of the workers. This Tribunal held such condition to be unjustified and it was ordered to be deleted from the award in the Burmah Shell and other Oil Companies case. (1954 I LLJ 21-25)". (1955 II LLJ 724)

Some disputes have arisen out of regular past practice of concerns paying bonus without any reference to the trading results of the concern. In one such case (Martin Burns Ltd. v. their workers), it was held by the tribunal that since the company has been paying two months' basic wages as bonus to all workers irrespective of trading results for over ten years, it must be held that payment of bonus had come to be an implied term of contract of service. It was decided that in such a case bonus so payable must be considered as wage within the meaning of sec. 2(6) of Payment of Wages Act. Thus, a claim for bonus can also be based on an agreement to pay it irrespective of profits, as a condition of service. That agreement may be either express or implied; and where not express past practice may lead to an inference of implied agreement. The practice

must, however, be unbroken and should have continued for an appreciably long period to exclude the hypothesis of these payments being "ex gratia" or out of bounty. In such cases, the principle laid down by the Supreme Court in Muir Mills case will not apply. That principle is confined to cases of profit bonus and does not apply to cases of customary or contractual bonus. In the latter case, "the liability depends exclusively on the express or the implied contract....." (1955 II LLJ 678).

Production Bonus : The nature of Production Bonus was discussed by the Appellate Tribunal in case of Metal Box Co. of India (1952 I LLJ 822). The tribunal observed, "there is a wide difference between production bonus and the bonus which the workers are entitled to claim at the end of the year. A production bonus is a definite increase of emoluments according to a fixed scale and any workman producing more than the fixed minimum automatically gets such a bonus. The bonus which the workmen claim at the end of a year is an indeterminate quantity which is dependent on whether the concern has any available surplus of profits in the year and it has nothing to do with production as such.

"A production bonus is a healthy scheme for providing an incentive to greater effort, resulting not only in higher emoluments for the workmen, but also in their livelier appreciation of the dignity of labour. We are not aware of any case where the grant of suitable production bonus has not resulted in the improvement of relations between employers and workmen."

Bonus has generally been paid unitwise except in case of established industries where the conditions of employment and prices are all standardised. In their case, bonus has sometimes been paid industry-wise. Thus in case of sugar mills in Uttar Pradesh, bonus was paid industry-wise by the Labour Appellate Tribunal (1952 I LLJ 615). Bonus was paid industry-wise by the Full Bench of the Appellate Tribunal in Millowners' Association case. (1950 II LLJ 1247) The tribunal, in this case, however, exempted the units which had incurred losses from payment.

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Bonus and Incremental Scale : While as a stop gap measure bonus serves as a useful tool to bridge the gap between actual wages and living wages to the extent possible, it has been well recognised that it is only a stop gap measure and that a regular incremental scale of wages corresponding more nearly to the living standard should be the normal long-term arrangement. The justification for incremental scales of wages was put forward by the Industrial Tribunal, Visakhapatnam in the following terms in Tungabhadra Industries Ltd. v. their workers. (1956 I LLJ 64) One reason why incremental scales should be preferred is that bonus is only an interim arrangement. The second reason is that with the passing of time, efficiency of the workmen increases and along with it their productivity may also increase and thus counter-balance the burden of the increasing wage bill ; except perhaps in the case of unskilled labour, for whom incremental scales will not be applicable. For the purpose of incremental scales, however, the industry should be in a position to bear the burden at present and the increasing burden in future. Not only the current financial ability, but also the financial stability of the concern must be firmly established before such scales can be fixed. Thinking almost on the same lines, the Appellate Tribunal expressed its dissatisfaction with short-term expedients such as bonus. "Firstly, the element of certainty year after year is wanting. Secondly, even if bonus is given, the rate would vary from year to year according to the variable prosperity of the concern and lastly, unhealthy atmosphere is generally created leading to perennial disputes over the question of bonus and consequent dis-

turbance of industrial pea e and harmony which is so much desirable." While expressing the opinion that increase in wages and/or granting of incremental time-scales both for time-rated and pie e rated workmen was therefore desirable, they stated that other weighty considerations must not, however, be lost sight of (1954 I LLJ 654).

Retirement Benefits

Principles arising out of the awards of tribunals in the matter of retirement benefits were summarised by the Appellate Tribunal in Indian Oxygen and Acetylene Co., Ltd. v. Their Employees' Union (1956 I LLJ 436). "It is now well settled by a series of decisions of this Tribunal that where an employer company has the financial capacity, the workmen would be entitled to the benefit of gratuity in addition to the benefit of a provident fund.....In considering the financial capacity of the concern what has to be seen is the general financial stability of the concern... ..the factors to be considered before framing a scheme of gratuity are the broad aspects of the financial condition of the company, its profit earning capacity, the profits earned in the past, its reserves and the possibility of replenishing the reserves, the claim of capital put having regard to the risk involved, in short, the financial stability of the concern." In the Kannan Devan Hills Produce Co., Ltd., case, the tribunal were of the view that in the absence of a scheme for pension, employees of industries having a future before them should have the benefit of the gratuity scheme even if such industries had a provident fund scheme. On the other hand, in Burmah Shell etc. v. their workmen, (1953 LLJ II 237) the Standard Vacuum Oil Co., was directed by the Appellate Tribunal to replace the pension and death benefit scheme started by them in October 47 by a provident fund scheme from 18th July 1953 on the pattern of the Caltex Scheme. Gratuity is a long-term arrangement and gratuity schemes must not be changed with every rise and fall in the fortunes of the employer. (1954 I LLJ 62) The tribunals, aware of this fact, have been careful to reject appeals for retirement benefit schemes, wherever the financial position of the concerns justified such rejection. Thus, in Brunton & Co., Ltd., v. their workers, a scheme for gratuity in addition to a scheme for provident fund was rejected on the plea of financial position. At the same time, the tribunal awarded a scheme for a limited period of seven years for workers who would not be substantially benefited by the provident fund scheme. Again, in Madras Press Labour Union, Madras and Artisan Press Ltd., Madras, it was held that claim for institution of a provident fund scheme within a year of the concern's incorporation was premature.

General Considerations

There are certain important general considerations arising out of the study of wage disputes in re ent years. As was already stated, disputes regarding bonus predominated even among the wage disputes and the points of dispute in such cases were mostly on the details of application of the available surplus formula to individual cases. It is obviously not possible to evolve a rigid arithmetical formula which will be uniformly applicable to all cases of bonus payment, since such payment by its very nature depends upon the individual profits of each particular concern year by year. Till incremental wage scales fairly near the living standard can be fixed for wage earners, bonus payment is inevitable, but that does not mean that there is no scope for reducing the number of wage disputes. A greater appreciation on the part of employers of the just principles involved in the available surplus formula and on the part of workers of the undesirability of making unreasonable claims should go a long way towards reducing the scope for disputes regarding bonus. A similar appreciation on the part of

employers and workers of the just principles evolved by the tribunals regarding minimum wages, dearness allowance etc., can reduce the in idence of other wage disputes also. While annual bonus can be a source of recurrent disputes in the absence of a proper perspective on the part of employers or workers or both, it is now fairly well settled by a series of decisions of the tribunals that settlements regarding wages etc., are to be definitely treated as long-term arrangements not to be disturbed without sufficient cause within short periods. The tribunals themselves have sought to draw a distinction between decisions which lay down a permanent scheme or decide a principle and those the effect of which exhaust themselves with a single compliance. Thus, to illustrate the point, decisions settling the schemes of provident fund and gratuity, standardization of wages, fixation of scales etc., would come under the former category while decisions about annual bonus, retrenchment, reinstatement etc., would fall in the latter .....Even if it be legally permissible it would be highly undesirable to disturb at short intervals a scheme once settled as it could not be conducive to industrial peace and tranquility" (1954 I LLJ 377).

It is necessary that this last point is sufficiently appreciated by both parties ; for, in the absence of such appreciation it is only too likely that either may begin to take lightly a resort to industrial courts in furtherance of just or unjust claims. In point of fact, there appears to be a tendency on the part of both employers and workers to stake their claims very high when a dispute is taken to the industrial tribunal in the hope of getting allowed at least a part of such claims, though it is difficult to prove this point without a more detailed study. It may be only stated here that such bargaining based on a lack of understanding of each other's just needs, leads to avoidable disputes. The tribunals can discourage such bargaining by not awarding token advantages to either party outside well-recognised principles and making all settlements, as far as possible, fairly long-term. The tribunals have themselves recognised this need as can be seen from Tata Oil Co. v. their workmen. In commending the grant of a higher dearness allowance for a satisfactory neutralizing of the cost of living, wherever the facts justified such increase, the Appellate Tribunal observed that "the grant of little token advances without any justification is unfortunate in the interests of industrial relations. Giving for the sake of giving in effect amounts to this 'that whenever a case is referred to adjudication reasons must be found to give a 'token increase', and that to our mind has an unsettling effect upon labour for they restlessly await the expiry of the period during which an award is in operation in order to make fresh claims, confident in the expectation that some little 'token' advance would always be forthcoming." (1952 II LLJ 814-817).

There is another consideration which should not be lost sight of by either party viz. the interests of the consumer and the larger interests of the country. This point is always liable to be overlooked in bilateral disputes, but the tribunals have fortunately taken notice of this aspect. Thus, in detailing the factors and considerations which should be kept in view in determining the quantum of bonus, in Greaves Cotton & Co., Ltd., case, it was pointed out, "Furthermore, we must not be unmindul of the impact of an unduly high bonus on the community as a whole." (1954 II LLJ 189) Again, in the Millowners' Association case, the Appellate Tribunal repeated, while arguing that the present state of the textile industry was not such that it should be called upon to bear additional burdens, that a balance must be struck between the needs of labour and the capacity of the concern to pay "and we must not be altogether unmindful of the existence of the consumer." (1955 II LLJ 38).

CHAPTER 3

DETERMINATION OF THE MINIMUM WAGE

The concept of the average family

In a Welfare State the fixation of minimum wages by Government is guided by the cost of ensuring a minimum level of living for the worker and not by the work itself. In other words, it is the worker's minimum monthly budget and not the nature of the work which serves as the yard-stick to arrive at the quantum of wages.

It is obviously not possible to construct a separate budget for every worker and fix wages to suit individual needs. Individual needs themselves keep on changing over a period of time, so that even if wage rates are fixed indivdually, they will have to be continually revised to accord with the changing pattern of requirements. The concept of the average or the standard family was born out of this difficulty and has been widely used in the process of wage determination in many countries. The budget for the average family indicates the cost of a hypothetical market basket to a hypothetical family. It has, therefore, to assume the size of the family, its age and sex composition, the number of wage earners therein and the goods and services which are necessary to ensure the members the required standard of living. It is agreed on all sides that these assumptions are inevitable, but as pointed out by the Fair Wages Committee, "there is not the same measure of unanimity of opinion as regards the size of the standard family". After considering different opinions on the subject, the practice in other countries and more particularly, the results of the family budget enquiries in this country, the Committee concluded that the standard Indian working class family should be reckoned as one consisting of the worker, his wife and two children, of whom the husband was the sole earner. On the basis of Dr. Aykroyd's formula as enunciated in Health Bulletin No. 23, this yielded 3 consumption units per earner. While the worker was treated as 1 consumption unit and his wife as 0.8 unit, the two children together were equated to 1.2 units by the Fair Wages Committee by averaging the coefficients for children of different age groups and multiplying the average by two. The Committee also expressed the opinion that wherever family groups were found to consist of more than 3 consumption units per family, the actual number of earners in the family might be counted for the purpose of calculating the minimum wage per earner.

The recommendations of the Fair Wages Committee in regard to the average family have generally been adhered to by the minimum wage committees and industrial tribunals. However, attempts have been made, here and there, to depart from the standard and in some cases, a departure has actually been made. For instance, it was argued before the Minimum Wages Committee (Residential Hotels, Restaurants and Eating Houses) Bombay, on behalf of the employers that the hotel employees are mostly single individuals and, therefore, their requirements should be considered on the basis of only one consumption unit. This argument was refuted by the Committee which stated, "It is well known that the labour in urban areas is drawn from the villages mostly because of the pressure on the land or uneconomic holdings and such other causes. Thus pushed out of the village, the worker comes for employment to the town or city and finds

a job either in a textile mill, other industry, trade or a hotel. His acceptance of a job in a hotel does not change the character or composition of the Indian family in villages". Moreover, the members of that Committee found on enquiry that the average size of the family of a hotel worker was 5.34 with 2.25 earners and 3.09 dependants and concluded that it would be unjust if minimum wages for hotel workers were not fixed on the basis of 3 consumption units, which had been taken into consideration by other committees and tribunals as a standard. On the other hand, the Minimum Wages Committee for Plantations, Madras (1951) worked on the basis of a standard family of 3 consumption units and 2.25 earners on the assumption that earners in the plantation worker's family included besides the worker, his wife and a child. The special Industrial Tribunal for Plantations, Coimbatore, subsequently revised this to 1.75 earners per family on the contention that while in most cases the wife was also an earner, only in exceptional cases a child was found to work. An instance where an industrial tribunal differed from the recommendations of the Fair Wages Committee may be had in the case of Gold mines at Kolar Gold Fields v. their workers (1955 I LLJ 511), where it was decided that if in a particular region, industry or employer, satisfactory evidence of more than 3 consumption units was available, that should be taken. Since the Minimum Wages Committee's report for Kolar Gold Fields had held, after due enquiry, that the average working class family in these mines consisted of 3.43 consumption units per wage earner and there was no evidence to the contrary, the tribunal held that a standard of 3.43 units should be adopted in the case of those mine workers for fixing minimum wages. In giving its decision on the bank appeal against the Sastry Award, the Labour Appellate Tribunal had proceeded on the assumption that a clerk would be entitled to 3 consumption units in his eighth year of service. The Bank Award Commission subsequently expressed the opinion that the method adopted by the Appellate Tribunal in this respect could not be seriously disputed. In the light of all these considerations, the Fair Wages Committee's estimate of 3 consumption units and one earner per family would appear to be the nearest approximation to an Indian standard and should continue to guide wage fixing authorities. However, it may have to be revised at a later date if warranted by the results of fresh family budget enquiries. Fresh family budget enquiries are, in any case, necessary because the results of the old enquiries are very much out-dated and can be used only within broad limitations to serve current policy.

In some foreign countries, there is legal provision for calculating the basic wage for a family of one wage earner having a wife and three children without taking into account the earnings of his wife and his children. In India, however, there is no law to the effect that the earnings of the wife and children of a worker should not be taken into consideration for fixing the worker's wage. Consequently, wages have sometimes been fixed as in the case of the plantation workers after taking into account the earnings of the wife and/or children. This practice, however, has come in for a good deal of criticism. An argument has been put forward that often the woman goes to work only because her husband does not earn enough for the maintenance of the family. Under such circumstances, if she is counted as an earner for the purpose of calculating minimum wages for the family it might thwart the very purpose for which she goes to work, by pulling down the wage per earner. The procedure whe eby the earnings of the wife and children are taken into account in fixing wages has also been criticised by the Rege Committee who have in their Report stated from

"The Plantation Labour in India" by R.K. Dass : 'A system of wages which requires the worker to depend upon the earnings of his wife and children or upon a subsidiary industry just in order to earn the necessaries of life, not to talk of decencies, luxuries and savings, can scarcely justify its existence from the point of view of social welfare or national economy". As the Award of the All India Industrial Tribunal (Colliery Disputes) points out, "Assuming that a very small percentage of women work, it is not for intellectual recreation, but for sheer necessity, because the male member does not earn enough" and "it is not for the benefit of the employer who can take advantage of that fact and deny her husband what he ought to be paid to maintain himself and his family". Whatever views might be held on these general considerations, it would seem appropriate that the earnings of women and children including adolescents should be disregarded for purposes of determination of minimum wages for workers.

A common criticism of the concept of the average family is that it seldom conforms with reality. Commenting on the practice of calculating a wage for a synthetic family in order to settle what thousands of families with membership above or below this average should have to live upon, Mrs. Barbara Wootton says, "It would be hardly more unrealistic to propose that in a school, in which the average age of the pupils was thirteen, but the actual ages ranged from eight to eighteen, the curriculum should be designed so as to be suitable throughout for thirteen year olds". In support of this contention, she cited the United Kingdom Sample Census returns of 1951, according to which, out of just under 14½ million households in Great Britain just under 2 million have two children, just over a million more have three or four children and more than 8 million have no children at all; whereas, in that country, the average family at any one moment is usually reckoned at two adults and two or three children. American experience points in the same direction. In the United States, the Bureau of Labour Statistics' "City Worker's Family Budget" assumes a family of four, consisting of father, mother and two children (8 and 13 years of age—a girl and a boy respectively), where the father's wages constitute the sole source of income. It has been stated that since the four-person family of the type mentioned above is something of an American ideal, it was chosen as the kind of family for whom the budget should first be developed. It, however, remains an ideal as can be seen from the 1950 Census in the United States which reveals that only 18.1% of households consist of four persons ; 60.7% have fewer and 21.2% have more members. The Bureau of Labour Statistics has itself recognised this difficulty by offering the following scales for determining equivalent incomes for families of varying sizes at the same level of living.

Family Size	*Percent of Cost of Four-person Family*
2 person family	66
3 ,,	84
5 ,,	114
6 ,,	128

It is not only the family size, but also the age and sex composition of the members of the family and of the earners that is arbitrary. The Coal Tribunal have illustrated how different consumption units can be arrived at for a hypothetical family by varying the ages of children. As the Special Bench of the Labour Appellate Tribunal, in its decision in the appeals against the Sastry Award observed, "the dependants can be the mother or father or both or younger sisters or younger brothers. In some cases again, the mother may be the earner in the family, because the father is disabled; in others, all persons in the family may

be adults and so on. A single budget cannot represent the requirements of all family types nor of a single family throughout its life span, just as bonus which is fixed on the basis of average profits earned in an industry cannot properly reflect profits earned by individual units in the industry. At the same time, a working principle must be found that would do justice to the pressure of social and economic conditions on the family life of a workman and as satisfying such a working principle, the concept of the average family is unexceptionable. In fact, even those critics who have pointed to the unrealistic nature of the formula have not entirely discounted its social acceptability.

A second criticism that is made against the concept of the standard family is really directed against the underlying principle that wages must be based on the needs of workers.

It has been argued that "wages are job related, rather than need related" and that the attempt to set wages on the latter basis would soon create a chaotic wage structure. Since it would not recognize economic contribution, it would tend to be corrosive of individual effort. The attempt to base wages on needs and not on the work is glaringly brought out in regard to wages of women. The arguments advanced favouring such a procedure have been many and varied. The Fair Wages Committee had stated that where women were employed on work exclusively done by them or where they were admittedly less efficient than men, there was every justification for calculating minimum and fair wages on the basis of the requirements of a smaller standard family in the case of a woman than in the case of a man. The Coal Tribunal which provided for only 2.25 consumption units in the case of female workers employed in manual work did so for the reasons "(i) that the female worker generally belongs to a family group with at least one male earner as it head, (ii) that in the case of majority of female workers the basic wage at present fixed is about 75% of what is fixed for the male workers and (iii) that special amenities enjoyed by women like maternity benefits, provision of creches etc., should make up for the deficiency". Expressing its inability to accept these reasons, the Appellate Tribunal have now awarded equal pay for equal work for men and women. As for the last argument of the Coal Tribunal, the Appellate Tribunal have stated that it would be valid only if the assumption is made that women workers are in a permanent state of maternity and that their children are always in creches.

It is one thing to pay younger persons, children and women less because they are inexperienced or turn out less work or do a simpler job which requires less exertion ; it is quite another to do so on the count that they are unlikely to carry heavy family responsibilities and may themselves be partially supported by somebody else. It is difficult to agree with the latter propostion. Where work of identical nature is concerned, pay also should be identical irrespective of who does the work—a man, woman or child. Pay should be work-based only and not need-based. Even the minimum wages calculated on the basis of a monthly budget for the standard family are and should be related to a minimum quantum of work. It is not as if the minimum wages are paid irrespective of the quantum of work turned out and as a matter of grace to support the the workers' family. The concept of the standard family is only a tool used for calculation of wages to see that they do not go down below a minimum level. Once the minimum wages are calculated for the lowest paid unskilled worker in the country, all other wages are easy to calculate by introducing suitable wage differentials. The criticism against the concept of the standard family that it tries to settle wages on the basis of needs and as such will take away the incentives from the worker will not, therefore, be valid. But, even at the minimum level, considering families in real life, of differing size and compo-

sion, it is true that families having a lesser number of dependants than those assumed in the standard family will stand to gain and those on the other side of the line will suffer. Since the dependants, leaving out the wife, mostly belong to the younger and the older age groups, old age pension schemes might be introduced to benefit the latter group. This may not be immediately possible, but should be kept in view for ultimate implementation. As for children, it may be neither feasible nor desirable to grant family allowances because it will encourage workers to build larger families which will go directly against all family planning programmes. The danger is particularly real when it is realised that even without any kind of monetary or other inducement, many workers consider children as an asset in that they can be used to supplement family income. On the other hand, in the case of a family having a lesser number of dependants than the average family,the comparative advantage that the worker gains from the standard wage will have to be considered as a premium for his prudence in restricting the size of his family or merely as a stroke of luck, according to circumstance.

Norms for Food

Minimum wages for the average family have to be based on requirements for food, clothing, housing and so on. In a vast country such as ours, there are bound to be regional variations in these requirements owing to climatic conditions, food habits etc. At the same time, a degree of uniformity can be ensured by adopting certain norms which would cover the minimum requirements in these matters. As regards food, different norms have been recommended by different authorities. The opinions expressed by *Dr. Aykroyd have usually carried weight with the wage fixing authorities. Dr. Aykroyd has prescribed dietary standards at two levels-the optimum level and the adequate diet level. An optimum diet, according to him, is one which ensures the functioning of the various life processes at their very best ; whereas an adequate diet maintains these processes but not at their peak levels. The optimum diet would include more of vitamins and less of proteins in its caloric content, while the adequate diet would include more proteins and less of vitamins Thus the optimum diet would include more of fruits and fresh vegetables than the adequate diet. For the purpose of minimum wage determination, the worker and his family might be provided with food to correspond to the adequate diet which has been recommended by Dr. Aykroyd for the Nutrition Advisory Council: (This is composed of Cereals 14 ozs., Pulses 3 ozs. Vegetables 10 ozs., Mi k 10 ozs., Sugar 2ozs', Oil & Ghee 2 ozs., Fruits 2 ozs., Fish & Meat 3 ozs., and Eggs 1 oz.,) The quantitative requirements of food are estimated in terms of heat units or 'calories'. On broad terms, Dr. Aykroyd has estimated the caloric requirements of a man doing moderate work at 3,000 and a man doing very hard work at 3,600. Similarly, a woman doing moderate work would require 2,500 calories and a woman doing hard work would require 3,000. In view of the somewhat lower metabolism of Indians, Dr. Aykroyd has considered a net in-take of 2,700 calories to be adequate for an average Indian adult of moderate activity. @

Norms for Clothing

As for clothing, no all India norm can be laid out in view of differences in climatic conditions as between regions. A slightly modified adoption of the norm used by the Planning Commission would, however, appear to be appropriate. The Planning Commission have assessed the

*Other sources in this respect are (1) Industrial Nutrition by Pyke Magnus, (2) Food—Maccarrison Robert, (3) Nutrition in Industry, an I.L.O. Publication & (4) The Nutritive value of Indian foods and the planning of satisfactory diets by Aykroyd W.B.

@Vide Memorandum prepared by the Nutrition Advisory Committee of the Indian Council of Medical Research and the Animal Nutrition Committee of the Indian Council of Agricultural Research.

requirements of cotton textiles in the country at a per capita consumption of 18 yards per annum. If this yard stick is used to include not only cotton, but also woollen and silk textile requirements of the worker, the average worker's family of four would, on an average, be entitled to 72 yards. This would be a fair estimate of the worker's requirements, sufficient to meet the requirements of even those workers living in the colder regions. The Planning Commission's estimate, no doubt pertains to the average Indian ; but it would be equally applicable to the industrial worker who is fairly above the lowest income group.

Norms for Housing

In the matter of housing, standards laid down by the Indusfrial House Sub-Committee of the Standing Labour Committee can be followed. The aim should be to provide the worker at least with a two-roomed tenement with adequate lighting, ventilation and open space and all other necessary accessories, though it may not be possible to reach this standard in all areas because of limitations of space etc.

Miscellaneous

According to the Fair Wages Committee, the minimum wage must provide not merely for the bare sustenance of life, but also for the preservation of the efficiency of the worker, including some measure of education for his children, medical requirements and other amenities. These are some of the major categories for which provision has to be made under the head 'miscellaneous'. Another major item in the group would be fuel and lighting. The industrial tribunals have gone by the findings of the old family budget enquiries, stepping up the expenditure on these items more or less in the same proportion as the rise in the case of food, where the current expendiure has been assessed on the basis of certain norms. The All India Industrial Tribunal (Colliery Disputes), in its recent coal award, has recommended a sum of Rs. 10/- towards miscellaneous items inclusive of fuel and lighting, but exclusive of education and medical facilities for which it has recommended Rs.3/- (Rs. 1/8 for education and 1/8 for medical facilities). In terms of percentage, the tribunal's provision under 'Miscellaneous' comes to about 20% of the total wage.

It would, therefore, appear that in determining wages needed for meeting the minimum requirements of the working class, the following considerations, among others, should be taken into account :—

(i) The Standard working class family should be taken to consist of three consumption units and one earner.

(ii) The minimum requirements in respect of food, clothing etc. for the worker and his family should be estimated according to standards laid down by the Nutrition Advisory Council in the matter of food, the Planning Commission in respect of clothing and the Industrial House Sub-Committee of the Standing Labour Committee as regards Housing.

(iii) For fuel, lighting and other miscellaneous items of expenditure, the allowance which will have to be made in computing the minimum wage shall be fixed in accordance with the results of fresh family budget enquiries. Till such time as these results are available, it shall be assumed that provision for Miscellaneous expenditure shall constitute 20% of the total wage.

CHAPTER 4

SHARE OF WAGES IN FACTORY OUTPUT

A periodic assessment of Labour's share in factory output and national income is made possible in a number of countries by detailed national income statistics, returns relating to social security schemes etc., often supported by general surveys of industrial establishments. In India, national income estimates are available only from 1948, data pertaining to social security are also of recent growth and the coverage of these is incomplete. Even with these limitations, an attempt has been made in this note to present, on the basis of available data some calculations about the share of labour in factory out-put from 1948 upto and including 1953, beyond which year it was not possible to carry forward the estimates.

Table 1

Percentage Share of Workers' Earnings in Net Value of Factory Output

(Rs. Crores)

	1948	1949	1950	1951	1952	1953
1. *Net domestic product of factory establishments at current prices*	528.9	519.2	528.6	612.7	612.1	731.1
2. *Earnings of factory workers*						
Estimate I*	208.9	250.8	259.3	281.2	2/3.6	331.2
Estimate II @	189.5	235.8	236.4	245.1	249.6	292.4
3. *Share of Wages in factory output*						
(% of 2 to 1)						
Estimate I	39.5	48.3	49.1	45.9	44.7	45.3
Estimate II	35.8	45.4	44.7	40.1	40.8	40.0

The above table compares the net product of factory establishments derived from national income statistics, with the earnings of factory workers. The industries chosen exclude railway workshops, ordnance factories, mints, indigo, tea-growing, coffee, dairy industries and telegraphs which are left out by the National Income Unit. Factory employees getting less than Rs. 200/- p.m. have been taken into account for computing workers' earnings. Even here, persons other than workers are excluded.

In Table I, earnings of factory workers have been arrived at by two different methods. In the first method, employment data available with the National Income Unit for the total industrial working force were adjusted to exclude persons other than workers. This adjustment was carried out by

*Multiplying the working force by average annual earnings
@Adding up actual wages paid in different states
Sources :— National Income Statistics
Indian Labour Year Book
Indian Labour Gazette

applying to the total industrial working force the ratio between workers and non-workers yielded by the Census of Manufactures. The net number of factory workers thus arrived at was multiplied by the average annual earnings per worker.

In the second method, actual wages paid to factory workers in different states were added up to arrive at the total factory wage bill for the country. These figures for actual wages paid were obtained from data for Part A and certain Part C States (Vide July 1956 issue of the Indian Labour Gazette). For Part B and the remaining Part C States, employment figures were culled out from issues of the Indian Labour Year Book and the wage bill calculated on the basis of wage rates prevailing in states with similar economic conditions. For each year an allowance had to be made to cover partial non-reporting of employment by Part B and some Part C States. For 1948, the National Income Unit have added Rs. 14 crores to net national income to cover such default and an assumption was made that approximately 50% of this sum could be traced to the earnings of workers in the industries included in the present study. On this basis, Rs. 7 crores was added to the total factory wage bill for each year.

Since the first method utilises only the average annual earnings paid and the second approach takes into account actual wages paid, it may be argued that results yielded by the latter approach are more realistic.

Table 1 indicates that while in absolute terms, the factory wage bill has been steadily increasing every year, this increase has not always been proportionate to the increase in net factory product. The share of wages in factory output shows a significant rise between 1948 and 1949/1950 and a slight decline over the subsequent three years. Both the approaches in the Table confirm this trend, though as worked out by the second method the percentage share is generally lower.

Table 2

Percentage Share of Workers' Earnings in Net Value of Factory Output
(29 Major Industries)

	1948	1949	1950	1951	1952	1953
All India	42.43	54.27	49.2	45.14	52.87	50.64
Assam	39.34	43.99	60.46	56.44	64.13	53.45
Bihar	41.32	41.81	37.51	44.81	37.89	41.60
Bombay	44.52	57.72	47.30	47.24	59.51	59.05
Madhya Pradesh	47.83	72.72	59.31	53.23	50.94	54.60
Madras	39.42	43.04	49.55	42.32	49.74	47.96
Orissa	41.81	49.22	39.64	32.89	35.15	29.09
Punjab	43.35	49.73	46.48	41.02	48.08	45.13
Uttar Pradesh	38.56	52.25	44.25	44.32	47.87	48.06
West Bengal	48.69	58.68	45.05	44.42	47.59	49.83
Delhi	37.41	58.26	56.48	42.16	51.69	46.05

Source : Census of Manufactures

Table 2 shows Labour's share in the net value added by manufacturing in the 29 major industries covered by the Census of Manufactures. The percentage share of labour in Table 2 is higher than in Table 1. This may be due to the fact that the 29 industries in Table 2 are the more important and better organised ones in which wage rates are comparatively higher.

Table 2 also exhibits regional variations. Bombay, for instance, shows the highest percentage for workers' share, while the share of wages is the lowest in Orissa.

Table 3

Percentage Share of Workers' Earnings in Net Value of Factory Output

MAJOR INDUSTRIES

	1948	1949	1950	1951	1952	1953
Sugar	26.96	18.44	24.11	29.81	27.59	28.73
Paper & Paper Products	39.11	38.08	38.58	30.13	30.60	30.26
Jute Textiles	55.86	60.20	52.01	42.68	57.57	59.47
Iron & Steel	39.72	34.01	38.42	46.56	42.23	35.64
General & Electrical Engineering	50.07	53.04	50.52	45.68	50.01	53.05
Cement	27.38	29.64	25.78	26.31	21.32	23.31
Cotton Textiles	46.22	64.68	64.97	53.84	66.45	62.42

Source : Census of Manufactures

Tables 3 to 10 spotlight the variations in labour's share in the net value added as between different industries. Table 3 shows that while this share does not exceed 30% in the Sugar and Cement industries, in Cotton Textiles it is above 60%. In Jute also, it is quite high. In Iron & Steel and General and Electrical Engineering industries, it is more than the average for all industries.

As for the trend over the years, in Sugar, the percentage has been rising since 1950; in Cement, it shows a steady decline; in Paper and Paper Products, there has been a sudden fall in 1951, but subsequently, the figure has remained stable. In Jute, Cotton Textiles and Iron & Steel, the percentage figure has been rising and falling, with large variations in certain years. In General and Electrical Engineering, it has varied within a narrow margin.

There may be a number of factors responsible for these inter-industry differences. Normally, it might be expected that in an industry where capital investment is large in relation to the number of workers employed, wages would represent a smaller proportion of the factory net product than in industries in which capital investment is relatively small Even within the same industry, inter-state variations as are noticed in Tables 4 to 10 may, to some extent, be due to units in some states using more modernised and costlier equipment, than in other states. Apart from the factor of capital investment, inter-industry variations may also be due to the fact that, on an average, workers in some industries have to be more highly skilled than in others and have, therefore, to be paid better. In other words, in those industries where, among the various factors of

production, the labour component plays a more vital role, the percentage share of labour in the net value added by manufacture may also be expected to be higher. Whether all these propositions are borne out by facts requires to be established on the basis of a more elaborate study. The remarks that follow on state-wise variations in the percentage share of workers in net factory product have, therefore, to be interpreted with a certain degree of caution and in the light of the foregoing considerations.

Table 4

Percentage Share of Workers' Earnings in Net Value of Factory Output

SUGAR INDUSTRY

	1948	1949	1950	1951	1952	1953
All India	26.96	18.44	24.11	29.81	27.59	28.73
Bihar	26.71	32.45	23.72	23.35	23.95	32.23
Bombay	10.67	12.20	16.08	15.73	16.49	14.71
Madras	21.58	20.42	17.59	27.83	19.96	20.71
Orissa	24.84	...	...	...	...	...
Uttar Pradesh	27.12	40.50	27.39	36.71	34.44	33.29

Source : Census of Manufactures

In the Sugar industry, workers in Bombay get the lowest share whereas Uttar Pradesh workers get the maximum, the share of the latter being more than twice that of the former.

Table 5

Percentage Share of Workers' Earnings in Net Value of Factory Output

PAPER & PAPER PRODUCTS INDUSTRY

	1948	1949	1950	1951	1952	1953
All India	39.11	38.08	38.58	30.13	30.60	30.26
Bombay	50.49	48.44	56.58	32.00	48.27	61.95
Madras	...	81.95	24.74	38.73	27.78	...
Uttar Pradesh	65.89	61.55	50.99	30.33	36.64	42.68
West Bengal	32.95	41.16	49.30	40.67	40.55	32.70

Source : Census of Manufactures

In the Paper Industry, the figures for Bombay and West Bengal appear to be comparatively more stable over the years; in Uttar Pradesh and Madras, they show large annual variations.

Table 6

Percentage Share of Workers' Earnings in Net Value of Factory Output

JUTE INDUSTRY

	1948	1949	1950	1951	1952	1953
All India	55.86	60.20	52.01	42.68	57.57	59.47
Madras	41.64	26.28	20.09	18.96	16.89	24.14
Uttar Pradesh	—	62.83	55.70	31.74	—	—
West Bengal	55.87	79.13	51.06	43.32	57.71	58.76

While the workers' share in the Jute industry is generally high, Madras appears to provide an exception. The workers' share in the net product of the Jute industry in Madras also shows a steadily declining trend over the period 1948-1952.

Table 7

Percentage Share of Workers' Earnings in Net Value of Factory Output

IRON & STEEL INDUSTRY

	1948	1949	1950	1951	1952	1953
All India	39.72	34.01	38.42	46.56	42.23	35.64
Bihar	34.75	30.50	33.02	45.41	41.50	33.03
Bombay	79.61	74.83	75.11	80.77	81.19	66.33
Punjab	89.81	74.89	135.71	84.12	103.63	73.59
Uttar Pradesh	58.60	43.97	51.92	65.68	62.70	65.19
West Bengal	50.71	41.21	50.53	45.93	39.72	39.64
Delhi	68.91	62.50	44.10	41.19	32.26	48.33

(Source : Census of Manufactures)

It will be seen that for certain years, workers in Punjab appear to have been successful in getting even more than the net output. Whether this is due to bonus declared out of previous year's profits or due to actual losses incurred by companies during the year in question cannot be settled without closer examination. The precentage of workers' share in Bihar is perhaps the lowest for all States and is generally even less than the percentage for all industries in Bihar itself.

Table 8

Percentage Share of Workers' Earnings in Net Value of Factory Output

GENERAL & ELECTRICAL ENGINEERING INDUSTRY

	1948	1949	1950	1951	1952	1953
All India	50.07	53.04	50.52	45.68	50.01	53.95
Assam	87.56	93.16	54.91	66.43	169.13	110.94
Bihar	43.52	181.49	60.42	80.91	56.70	53.15
Bombay	50.04	50.14	53.46	41.09	47.93	48.03
Madhya Pradesh	73.57	80.23	59.41	91.31	54.47	61.16
Madras	61.43	57.94	49.63	46.48	53.96	57.40
Orissa	103.33	151.06	116.35	109.56	91.56	106.54
Punjab	53.04	58.19	56.21	59.17	62.41	90.25
Uttar Pradesh	64.74	57.09	57.18	58.01	64.93	56.45
West Bengal	47.16	47.46	49.76	47.91	50.04	53.54
Delhi	68.42	53.09	55.70	41.64	49.73	49.84

Source : Cenus of Manufactures

It is significant that workers in Orissa appear to be getting more than the net value added by manufacture for almost all the years under study. This deserves closer investigation.

Table 9

Percentage Share of Workers' Earnings in Net Value of Factory Output

CEMENT INDUSTRY

	1948	1949	1950	1951	1952	1953
All India	27.38	29.64	25.78	26.31	21.32	23·31
Bihar	35.18	28.48	29.38	25.23	19.17	22.91
Madras	52.58	34.88	26.01	22.00	21.98	32.05

Source : Census of Manufactures

In the Cement industry, there are no noticeable variations in the figures obtained for different states.

Table 10

Percentage Share of Workers' Earnings in Net Value of Factory Output

COTTON TEXTILES INDUSTRY

	1948	1949	1950	1951	1952	1953
All India	46.22	64.68	64.97	53.84	66.45	62.42
Bombay	47.54	64.93	63.77	53.73	69.78	75.41
Madhya Pradesh	53.29	95.59	91.75	63.04	68.60	83.19
Madras	38.29	54.47	58.87	45.04	56.59	48.43
Orissa	—	—	—	36.32	45.81	44.72
Punjab	66.45	98.76	112.75	73.78	83.64	69.42
Pradesh	47.37	69.56	67.60	64.32	69.61	70.17
West Bengal	39.91	61.30	59.45	61.57	65.54	55.69
Delhi	34.99	63.78	65.21	41.78	57.14	46.51

Source : Census of Manufactures

There is no consistent trend in the inter-state variations for the Cotton Textiles Industry except for the fact that in Orissa the percentage share of workers is low throughout.

Referring to Table 1 again, it will be seen that on an average, factory labour gets about 40% of the net income generated by large scale enterprises in India. This stands favourable comparison with the corresponding figures for other countries. At the same time, it needs closer investigation to determine whether this percentage can be improved even under existing circumstances. The tables in this note are useful only in so far as they indicate a method of approach. The statistics themselves would have to be interpreted with a great deal of caution.

For instance, there may be a number of factors responsible for the trend indicated in Table I viz., a rise between 1948 and 1949/1950 and a decline thereafter. It may be that the trend would be different if allowance is made for income tax payments made by the factories and if bonus payments are distributed evenly over the years. It may also be that the major factor responsible for the change in the share of labour is fluctuations in agricultural prices. On the whole, prices of manufactured products are more stable than those of the raw materials required for manufacturing. The result is that an increase in raw material prices is often associated with a decline in profit margins whereas a fall in agricultural prices reduces the share of labour in the net product of factories. Raw material prices increased during 1948-51 and declined in subsequent years, when there was a decline in agricultural prices. It may also be that the remuneration of workers which is linked to the cost of living in many industries moves up and down together with agricultural prices and thus accentuates the trend referred to above. It is significant that the All India Consumer Price Index (1949=100) increased from 97 in 1948 to 105 in 1951 and declined thereafter. If the explanation given above is correct, it would follow that year to year variations in the share of labour in factory output would be unavoidable as long as agricultural prices fluctuate widely and as long as the prices of manufactured articles do not reflect fully the variations in raw-material prices.

There would always be need for a great deal of explanation and analysis in interpreting such changes in the share of labour as we notice in the Tables. Consequently, there would always be a considerable degree of doubt as to whether any particular change in the share of labour does or does not justify a change in money-wages. If the object is to find out whether workers get a fair share or not, the situation in each unit will have to be analysed separately. Overall calculations about the share of workers in different industries and in different regions might give us an idea of the sectors or regions where wages are unduly low. Allowance, however, will have to be made for differences in capital structure, in cost of living, cost of materials and a number of other specific factors pertaining to the region or the industry. It is hardly possible to do this without getting back to a study of the situation in each individual unit. It would thus appear that for determining wages, a consideration of workers' percentage share in net factory product has very little utility, unless perhaps wages have to be determined at the level of the undertaking. Sharp judgements based on overall data about particular industries or regional data which are by no means perfect and which in any case have to be modified in a number of ways are likely to be misleading rather than helpful.



APPENDIX I

Extracts relating to Wages, Social Security. Rationalisation etc., from Chapter XXXIV on Labour in the First Five Year Plan.

Our approach to labour problems rests on considerations which are related on the one hand to the requirements of the well being of the working class and on the other to its vital contribution to the economic stability and progress of the country. The worker is the principal instrument in the fulfilment of the targets of the Plan and in the achievement of economic progress, generally. His co-operation will be an essential factor in creating an economic organisation in the country which will best subserve the needs of social justice. Certain rights and obligations are associated with this distinctive role.

Adequate provision has to be made for the basic needs of the workers in respect of food, clothing and shelter so as to enable them to remain in a state of health and efficiency. Besides the satisfaction of these basic needs, they should have their due share in social and economic progress in the shape of improved health services, wider provision of social security, better educational opportunities and increased recreational and cultural facilities. The workers must, of course, as members of the community have the full benefit of the social services and facilities available to any other section. Appropriate measures must, however, be taken to meet their peculiar difficulties and to remove their special handicaps.

Wages

During the war and the post war period there had been a rapid rise in prices. The profits of industries have considerably increased. The organised section of labour has also been able to obtain substantial increases in wages. But if the inflationary pressure is to be checked, steps may be necessary to divert to saving the present expenditure on consumption and to increase production. With regard to the industrial sector, profits and wages may have to be subjected to some control by Government during the period of the implementation of the Plan. Action should therefore be taken on the following lines:—

(a) The excess profits tax and certain restrictions on dividends during the war and for a short period after the war have helped to keep in check the distribution of large dividends. During the period of the implementation of the Plan also similar restrictions should be placed on the remuneration of management, distribution of profits and the issue of bonus shares. Such restrictions may have to give due consideration to :

(i) a fair return on capital depending upon the nature of the business and the past practice of paying dividends during normal periods ;

(ii) the claim of share-holders for a fair return on capital where during the initial period of the new undertaking no distributable profits are made.

(b) On the side of wages, any upward movement, at this juncture will further jeopardise the economic stability of the country if it is reflected

in costs of production and consequently raises the price of the product. For workers too, such gains will prove illusory because in all likelihood they will soon be cancelled by a rise in the general price level, and in the long run the volume of employment may be adversely affected. Such an increase in wages should, therefore, be avoided. Workers can be expected to agree to such a course only if restrictions are also placed on the distribution of profits as outlined in (a) above. Any steps to restrict wage increases should, therefore, be preceded by similar restrictions on the distribution of profits. Subject to this wage increases should be granted under the following circumstances:—

(i) To remove anomalies or where the existing rates are abnormally low;

(ii) To restore the pre-war real wage, as a first step towards the living wage through increased productivity resulting from rationalisation and the renewal or modernisation of plant.

Certain broad principles which may help in the regulation of wages have emerged as a result of the labours of various Commissions and Committees appointed by the Central and State Governments. These have, for the most part, been embodied in the existing and proposed legislation on the subject. They still do not form an adequate basis for a uniform policy in determining wage rates and effecting wage adjustments. The tripartite machinery, visualised in the section on Industrial Relations, should evolve in as precise terms as practicable, the 'norms' and standards, which should guide wage boards or tribunals in settling questions relating to wages, having regard to the claims of the various groups of workers interest, of the other participants in industry and of the community as a whole. The course of action in this respect in the immediate future should be governed by the following considerations:—

(a) All wage adjustments should conform to the broad principles of social policy and disparities of income have to be reduced to the utmost extent. The worker must obtain his due share in the national income.

(b) The claims of labour should be dealt with liberally in proportion to the distance which the wages of different categories of workers have to cover before attaining the living wage standard.

(c) The process of standardization of wages should be accelerated and extended to as large a field as possible. There should be a progressive narrowing down of disparities in the rates of remuneration of different classes of workers in the same unit, of workers engaged in similar occupations in different units of the same industry, of comparable occupations in different industries and in wages in the same industry at different centres. Differentials for various jobs should be maintained at the minimum levels justified by :

(i) the degree of skill required ;
(ii) the strain and the fatigue involved ;
(iii) the training and experience required ;
(iv) the responsibi ity to be undertaken;
(v) the mental and physical requirements for doing the work ;
(vi) the disagreeableness of the task; and
(vii) the attendant hazards.

(d) A scientific assessment of the relative work load in differnt occupations and industries should be taken up. In this connection pilot studies on payment

by results which are proposed to be sponsored by the Ministry of Labour with the technical assistance from the I.L.O. are a step in the right direction.

(e) The payment of dearness allowance to compensate for the rise in the cost of living has been an important feature of the wage structure during the war and post-war period. Since the end of war there have been demands made on behalf of labour for merging a substantial portion of dearness allowance into basic wages as there was no likelihood of prices falling to the pre-war level. The Government of India recently appointed a Committee to recommend what percentage of dearness allowance given to Central Government servants should be treated as pay. The Committee, in its report submitted to Government, has come to the conclusion that in the foreseeable future the cost of living index is not likely to fall below the range 265-284, taking the pre-war index to be 100. On this basis the Committee recommends that 50 per cent of the dearness allowance admissible to the Central Government servants drawing a basic pay upto Rs. 750 p.m. should be amalgamated with pay. We accept this recommendation and suggest that the recommendation made by the Committee should be extended to workers in the private sector also.

Full and effective implementation of the minimum wage legislation should be secured during this period. Depressed areas should receive prior attention. In view of the paucity of data and the administrative difficulties pointed out by various State Governments, a limited beginning should be made with regard to the fixation of minimum wages for agricultural workers and the scope should be extended further as experience is gained. Suggestions on this subject have been made earlier in the report.

A kind of profit sharing in the form of periodic bonuses usually awarded by industrial courts and tribunals exists today. No proper basis for the awards has been worked out. The subject is one requiring expert examination and a study of the general and technical aspects of the problem. Efforts should be made to find out suitable experts within the country as also from countries like the U.S.A, Germany, the United Kingdon, Sweden and organisations like the I.L.O. who should go into the question of wages, profits, terms and conditions of payment, etc., and make recommendations. Although the quantum of bonus to be paid would be determined by the formula to be laid down, to prevent the diversion of resources into consumption payment in cash should be restricted the balance to constitute the savings of workers. This course of action should be accepted on the basis that it does not prejudice the contentions of either party regarding the character of the bonus. This would of course have to accompany similar restrictions on consumption in respect of other sections of the community.

Permanent wage boards with a tripartite composition should be set up in each State and at the Centre to deal comprehensively with all aspects of the question of wages, to initiate necessary enquiries, collect data, review the situation from time to time and take decisions regarding wage adjustment *suo motu* or on reference from parties or from the Government.

Social Security

Article 32 of the Constitution says, "The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education, and public assistance in case of unemployment, old age, sickness, disablement and other cases of undeserved want." While this is generally applicable to the population of the country as a whole the industrial worker is more liable to disease and invalidity than the average citizen. The man days lost on account of sickness and disability constitute a heavy drain not only on the slender resources of the industrial workers but also on the industrial

output of the country. Lack of social security impedes increased production, leads to large labour turn-over and prevents building up of a stable and efficient labour force.

In all advanced countries the worker is protected against various types of risks such as sickness, unemployment, old age, employment injury, maternity, invalidity, etc. In India also, some of the risks to which a worker is exposed have been covered by the Workmen's Compensation Act and the Maternity Benefit Acts of the various State Governments. The Employees' State Insurance Act is a more comprehensive piece of legislation and it applies in the first instance to factories using power and employing 20 or more persons, and covers all employees who are in receipt of remuneration not exceeding Rs. 400 p.m. It insures risks of sickness, maternity, and employment injury. In addition to the medical care to which an insured person is entitled, cash payments are given equal to about half of the average wages.

The scheme framed under the Employees' State Insurance Act has been introduced at present in Delhi and Kanpur and is expected to be implemented throughout the country by the middle of July 1954. The programme for the implementation of the scheme in other States prepared by the Labour Ministry should be adhered to and the State Governments, employers and workers should offer their fullest co-operation for the purpose. The scheme does not include at present the families of the insured persons. Both in its coverage and the amount of benefits provided the scheme may appear to be modest as compared with similar schemes in some of the advanced countries. In view of its novelty, administrative and other difficulties and the financial implications of the scheme, efforts should be directed during the period of the Plan only to the proper implementation of the scheme in its present form and to putting it on a sound and sure foundation.

Another measure which can provide for the future of the workers is institution of provident funds. The Central Legislature has recently passed the Employees' Provident Fund Act, 1952. A scheme under that Act has also been published and its implementation is expected to take place shortly.

The Act at present applies to six major industries employing 50 or more persons-Textiles, Iron and Steel, Cement, Engineering, Paper and Cigarettes. As soon as experience is gained and the scheme is placed on a sound basis, it should be extended in gradual stages to all the industries employing 50 or more persons during the period of the Plan. A programme for its extension should be drawn up.

Rationalisation

Another difficulty in the way of increase in production and reduction in costs is that several industries are faced with labour surplus to their requirements. The problem of rationalisation has so far proved difficult of solution. Notwithstanding the imperative need to reduce costs by rationalising industrial processes, the working class has strongly resisted it because of the consequent displacement of labour. It is now possible to reconcile the conflict and facilitate the progress of rationalisation on the strength of the following safeguards :—

(i) Musters should be standardised, and work-loads fixed onthe basis of technical investigations carried out by experts selected by the management and labour. Side by side working conditions should also be standardised. In the case of new machinery, a period of trial may be necessary before standardisation is effected;

(ii) Wherever rationalisation is contemplated, fresh recruitment should be stopped and vacancies due to death and retirement should not be refilled ;

(iii) Surplus workers should be offered work in other departments wherever possible without causing a break in service and without bringing down their emoluments as far as possible ;

(iv) Having regard to the position regarding raw materials, the state of the capital market, the availability of capital goods and the demand for the products of an industry, wherever the conditions of the industry permit, new machinery should be installed ;

(v) Gratuities should be offered as inducement to workers to retire voluntarily ;

(vi) Retrenchment should be effected from amongst persons who have been freshly employed ;

(vii) Where management and labour agree, the possibility of working for seven days in a week may be explored as a temporary measure;

(viii) Workers thrown out of employment as a result of rationalisation should be offered facilities for retraining for alternative occupations. The period of such training may extend upto nine months. A training scheme should be jointly worked out by Government, employers and workers ;

(ix) The maintenance of workers during the training period should be the responsibility of the management, whereas the cost of training should be borne by the Government ;

(x) Full use should be made of the possibilities of utilizing surplus labour in various projects undertaken by Government ;

(xi) Incentives for sharing the gains of rationalisation through higher wages and a better standard of living should be provided. Where such gains are made through the additional efforts of workers, they should receive a share in the resulting benefit, most of which should pass to workers where wages are below the living wage. Where there has been some capital investment by the management, this should be taken into account in distributing the workers' share. The object is to facilitate the workers attaining a living wage standard through acceptance of rationalisation.

APPENDIX II

Extracts relating to Wages, Social Security, Rationalisation etc. from Chapter XXVII on Labour Policy and Programmes in the Second Five Year Plan.

The First Five Year Plan was drawn up in the context of a growing consciousness of the importance of industrial labour in the national economy. With the advent of Independence, certain assurances were given to labour in recognition of its rights which had long been neglected. An attempt was made in the first plan to give concrete shape to these assurances and to give labour a fair deal consistent with the requirements of other sectors of the economy.

Much of what has been said in regard to labour policy in the first five year plan holds good as a basis for the future. However, in the light of the socialist pattern of society, within which setting the second five year plan has been farmed, suitable alterations in labour policy require to be made. A socialist society is built up not solely on monetary incentives, but on ideas of service to society and the willingness on the part of the latter to recognise such service. It is necessary in this context that the worker should be made to feel that in his own way he is helping to build a progressive State. The creation of industrial democracy, therefore, is a pre-requisite for the establishment of a socialist society.

In view of the fact that public sector will grow in future, the manner of administration of industrial relations in public enterprises is of great importance for the success of the undertaking and for the fulfilment of the aspirations of labour. Any attempt, therefore, on the part of public employer to avoid the responsibility of an employer on the ground that he is not working for profits has to be discouraged. Managements of public undertakings should not normally seek exemptions from labour laws or ask for other concessions not available to the private sector.....In the last analysis employees in the public sector should on the whole be at least on par with their counterparts in private employment and should feel a legitimate pride in what they produce and in their position as employees in the public sector.

Wages

A wage policy which aims at a structure with rising real wages requires to be evolved. Workers' right to a fair wage has been recognised but in practice it has been found difficult to quantity it. In spite of their best efforts, industrial tribunals have been unable to evolve a consistent formula. A major difficulty experienced in the fuller implementation of the principle of fair wage is the 'drag' exercised by marginal units in determining the wage structure. While the financial position of average units in a centre requires to be made the basis of wage fixation, if progress towards fair wages is to be accelerated, the conflicting considerations of closure of marginal units and its effect on unemployment also become pertinent in the context of planning. This means that steps require to be taken to improve the working of marginal units. One way of making such units more viable is their amalgamation into larger units, voluntarily if possible, compulsorily if need be, consistent with the requirements of a decentralised economy. Data on the functioning of marginal units are lacking. Extensive surveys require to be undertaken before it can be determined whether a unit falls in the marginal category or not. Even after the marginal character of a

unit is established, there will be difficulties in the process of amalgamation, but these will have to be tackled as they arise.

Improvement in wages can result mainly from increased productivity. Increase in productivity does not necessarily involve installation of new machinery or greater exertion on the part of labour. Steps like better lay-out of plants, improvement in working conditions and training of workers could ensure increase in output without correspondingly increasing the strain on workers, and in some cases lead to increased output with reduced strain. Another step in this direction would be the introduction of payment by results in areas where at present this principle does not apply. This approach should be followed, subject to adequate safeguards for workers, the main guarantees being a minimum (fall back) wage and protection against fatigue and undue speed up. Earnings beyond the minimum wage should be necessarily related to results. Workers should be consulted before a system of payment by results is introduced in an establishment. Studies should be undertaken to see whether there is any scope for wage increases even at the present level of productivity especially when it is claimed that industrial production has gone up almost without any increase in the level of industrial employment.

There are two more aspects of wage policy which require to be examined further. The first concerns the laying down of principles to bring wages into conformity with the expectations of the working class in the future pattern of society; the second, the settlement of wage disputes in the interim period. In regard to the former, a view has been expressed that a wage commission should be appointed in order to examine the relevant material and to lay down principles for defining the respective roles of wages, profits and prices, taking into account the declared social objective of the community. It has to be recognised, however, that a commission of the type suggested, if appointed forthwith, will be considerably handicapped for want of data and any conclusions that it might reach on insufficient facts will not provide a suitable basis for a long-term policy. Urgent steps are, therefore, needed to undertake a wage census.

The existing wage structure in the country comprises, in the main, a basic wage and a dearness allowance. The latter component in a majority of cases has relation to cost of living indices at different industrial centres. These indices have not been built up on a uniform basis; some of them are worked out on primary data collected about 20 to 25 years ago and are therefore not a true reflection of the present spending habits of workers. Since one of the questions which the wage commission will have to take into account is the demand made by workers' organisations for merging a part of the dearness allowance with the basic wage, evolving recommendations for such a merger will not be sufficiently scientific if cost of living indices at different centres do not have a uniform basis. Steps will, therefore, have to be taken simultaneously with the undertaking of a wage census, to institute enquiries for the revision of the present series of cost of living indices at different centres.

Statistics of industrial disputes show that wages and allied matters are the major source of friction between employers and workers. The existing machinery for the settlement of disputes, namely the Industrial Tribunals, has not given full satisfaction to the parties concerned. A more acceptable machinery for settling wage disputes will be one which gives the parties themselves a more responsible role in reaching decisions. An authority like a tripartite wage board, consisting of equal representatives of employers and workers and an independent

chairman will probably ensure more acceptable decisions. Such wage boards should be instituted for individual industries in different areas.

Principles relating to the settlement of bonus and profit sharing require further study before an arrangement acceptable to all the parties could be evolved. In the meanwhile the present arrangement for the settlement of such disputes through the existing industrial relations machinery should continue.

Social Security

The Employees' Provident Funds Scheme which was instituted on a statutory basis during the first five year plan, should be extended to cover industries and commercial establishments having 10,000 workers or more in the country as a whole. Enhancement of the rate of contribution from 6¼ per cent to 8⅓ per cent, should be further studied. It needs to be examined whether the present provident fund contributions could be converted so as to form a basis for a suitable pension scheme. A proposal regarding the provision of medical benefits to workers' families under the Employees' State Insurance Scheme is under consideration. Extension of the coverage of the scheme is also contemplated. The possibility of combining the different social security provisions at present in force into an overall social security scheme is being explored. A unified scheme will have the advantage of reducing overhead costs and from the savings so effected it may provide a more diversified set of benefits. Decentralisation of the administration of such a unified scheme would prove advantageous to its beneficiaries. Wherever feasible, workers disabled by industrial accidents should be provided with alternative employment.

Rationalisation

The first five year plan mentioned a number of principles evolved as a result of agreement between the representatives of employers and workers for facilitating the progress of rationalisation. In all cases of rationalisation these principles should be strictly adhered to and should be applied in the spirit in which they were arrived at. It is necessary to emphasise this point since it has been found that in discussions on rationalisation both employers and workers sometimes overlook the principles mentioned above. The attention of industrial tribunals may be drawn to the need for giving due weight to these agreed arrangements in framing their awards. In case principles agreed upon between the parties are not taken due notice of, the question of embodying them in a statute could be considered. In the context of growing unemployment, rationalisation has an adverse psychological effect on workers. Even so, to freeze the existing techniques of production is not in the larger interests of a developing economy. Rationalisation should, therefore, be attempted when it does not lead to unemployment, is introduced in consultation with workers, and is effected after improving working conditions and guaranteeing a substantial share of gains to workers.

Apart from the formulation of a broad policy on rationalisation, which must no doubt be based on a mutually agreed arrangement between the parties concerned difficulties in the settlement of disputes on rationalisation have arisen mainly on account of disagreement over details. The loss of production which came about in the recent Kanpur Textile dispute on this issue is an example in point. While the principle of rationalisation is accepted, difficulties in reaching agreements over details arise at the unit level regarding, *inter alia*, (a) apportionment of work-load, (b) extent to which wages are to be increased

in the event of increased work-load, (c) extent of machinery which is obsolete and requires to be replaced, (d) enforcement of stricter standards of control over the installation of new machines and (e) retraining of retrenched workers and finding alternative jobs for them. These difficulties can be best settled by the parties after technical examination by independent experts. There will, however, remain some special problems attendant on schemes of rationalisation which may have repercussions over more than one State. For dealing with them it is necessary to have a high power authority appointed by the Central Government.

Women Workers

.....The principle of equal pay for equal work needs to be more vigorously implemented and the tendency to scale down the jobs traditionally handled by women has to be guarded against.



APPENDIX III

Extracts from Main Conclusions/Recommendations of the 15th Session of the Indian Labour Conference (11th and 12th July, 1957)

Wage Policy during the Second Five Year Plan

(1) While accepting that minimum wage was 'need-based' and should ensure the minimum human needs of the industrial worker the following norms were accepted as a guide for all wage fixing authorities including minimum wage committees, wage boards, adjudicators, etc. :—

(i) In calculating the minimum wage the standard working class family should be taken to comprise three consumption units for one earner, the earning of women, childern and adolescents being disregarded.

(ii) Minimum food requirements should be calculated on the basis of a net intake of calories as recommended by Dr. Akyroyd for an average Indian adult of moderate activity.

(iii) Clothing requirements should be estimated on the basis of a per capita consumption of 18 yds. per annum, which would give for the average worker's family of four a total of 72 yds.

(iv) In respect of housing, the rent corresponding to the minimum area provided for under Government's Industrial Housing Scheme should be taken into consideration in fixing the minimum wage.

(v) Fuel, lighting and other miscellaneous items of expenditure should constitute 20% of the total minimum wage.

(2) Wherever the minimum wage fixed was below the norms recommended above, it would be incumbent on the authorities concerned to justify the circumstances which prevented them from adherence to the aforesaid norms.

(3) As regards fair wages, the Wage Board should go into the details in respect of each industry on the basis of the recommendations contained in the Report of the Committee on Fair Wages. These recommendations should be made applicable to employees in the public sector also.

(4) The appropriate machinery for wage fixation would be tripartite wage boards similar to the one already appointed for the cotton textile industry. Setting up of Wage Boards were suggested by workers' representatives for the following sectors of employment :—

(a) Jute

(b) Plantations

(c) Mines, other than coal

(d) Engineering
(e) Iron & Steel
(f) Chemicals
(g) Sugar
(h) Cement
(i) Railways
(j) Posts and Telegraphs
(k) Civilians employed in defence establishments covered by the Industrial Disputes Act, 1947.
(l) Ports and Docks.

The employers' representatives were of the view that this should be left to the discretion of Government.

(5) The Government Study Group on Wages might usefully assemble available material on the following subjects for the information of all concerned

(i) Work-load and job evaluation ;
(ii) Rationalisation of management in industries including those in the public sector ;
(iii) Working conditions, and
(iv) A detailed study of the relative share of workers, capital, management and the public exchequer in the factory product.

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APPENDIX IV

Extract from Supreme Court Judgement in Civil Appeal No. 235 of 1956.

Between

M/S Crown Aluminium Works, Belur — Appellant

Versus

Their Workmen represented by
Bengal Aluminium Workers' Union — Respondents

Wage structure fixed in a given industry-Revision to the prejudice of its workmen-when permissible.

JUDGEMENT (EXTRACT)

"In dealing with this question, it is essential to bear in mind the main objectives which industrial adjudication in a modern democratic welfare state inevitably keeps in view in fixing wage structures. "It is well known" observes Sir Frank Tillyard, "that English Common Law still regards the wage bargains as a contract between an individual employer and an individual worker and that the general policy of the law has been and is to leave the two contracting parties a general liberty of bargaining so long as there is no term against public policy." (1) In India as well as in England and other democratic welfare states great inroad has been made on this view of the Common Law by labour welfare legislation such as the Minimum Wages Act and the Industrial Disputes Act. With the emergence of the concept of a welfare state, collective bargaining between trade unions and capital has come into its own and has received statutory recognition; the state is no longer content to play the part of a passive on looker in industrial disputes. The old principle of the absolute freedom of contract and the doctrine of *laissez faire* have yielded place to new principles of social welfare and common good. Labour naturally looks upon the constitution of wage structures as affording "a bulwark against dangers of depression, safeguard against unfair methods of competition between employers and guarantee of wages necessary for the immediate requirements of employees." (2) There can be no doubt that in fixing wage stuctures in different industries, industrial adjudication attempts, gradually and by stages though it may be, to attain the principal objective of a welfare state, to secure "to all citizens justice, social and economic." To the attainment of this ideal the Indian constitution has given a place of pride and that is the basis of the new guiding principles of social welfare and common good to which we have just referred.

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(1) "The Worker and the State" by Sir Frank Tillyard, 3rd ed. p. 37.

(2) "Wage Hour Law" Coverage—By Herman A. Wecht, p. 2.

Though social and economic justice is the ultimate ideal of industrial adjudication, its immediate objective in an industrial dispute as to the wage structure is to settle the dispute by constituting such a wage structure as would do justice to interests of both labour and capital, would establish harmony between them and lead to their genuine and whole-hearted cooperation in the task of production. It is obvious that cooperation between capital and labour would lead to more production and that naturally helps national economy and progress. In achieving this immediate objective, industrial adjudication takes into account several principles such as, for instance, the principle of comparable wages, productivity of the trade or industry, cost of living and ability of the industry to pay. The application of these and other relevant principles leads to the constitution of different categories of wage structures. These categories are sometimes described as living wage, fair wage and minimum wage. These terms, or their variants, the comfort or decency level, the subsistence level and the poverty or the floor level, cannot and do not mean the same thing in all countries nor even in different industries in the same country. It is very difficult to define or even to describe accurately the content of these different concepts. In the case of an expanding national economy the contents of these expressions are also apt to expand and vary. What may be a fair wage in a particular industry in one country may be a living wage in the same industry in another country. Similarly what may be a fair wage in a given industry today may cease to be fair and may border on the minimum wage in future. Industrial adjudication has naturally to apply carefully the relevant principles of wage structure and decide every industrial dispute so as to do justice to both labour and capital. In deciding industrial disputes in regard to wage structure, one of the primary objectives is and has to be the restoration of peace and goodwill in the industry itself on a fair and just basis to be determined in the light of all relevant considerations. There is, however, one principle which admits of no exceptions. No industry has a right to exist unless it is able to pay its workmen at least a bare minimum wage. It is quite likely that in under-developed countries, where unemployment prevails on a very large scale, unorganised labour may be available on starvation wages, but the employment of labour on starvation wages cannot be encouraged or favoured in a modern democratic welfare state. If an employer cannot maintain his enterprise without cutting down the wages of his employees below even a bare subsistence or minimum wage, he would have no right to conduct his enterprise on such terms. In considering the pros and cons of the argument urged before us by Mr. Sen, this position must be borne in mind.

The question posed before us by Mr. Sen is : Can the wage structure fixed in a given industry be never revised to the prejudice of its workmen ? Considered as a general question in the abstract in must be answered in favour of Mr. Sen. We do not think it would be correct to say that in no conceivable circumstances can the wage structure be revised to the prejudice of workmen. When we make this observation, we must add that even theoretically no wage structure can or should be revised to the prejudice of workmen if the structure in question falls in the category of the bare subsistence or the minimum wage. If the wage structure in question falls in a higher category, then it would be open to the employer to claim its revision even to the prejudice of the workmen provided a case for such revision is made out on the merits to the satisfaction of the tribunal. In dealing with a claim for such revision, the tribunal may have to consider, as in the present case, whether the employer's financial difficulties could not be adequately met by retrenchment in personnel already effected by the employer and sanctioned by the tribunal. The tribunal may also enquire whether the financial difficulties facing the employer are likely to be of a short

duration or are going to face the employer for a fairly long time. It is not necessary, and would indeed be very difficult, to state exhaustively all considerations which may be relevant in a given case. It would, however, be enough to observe that, after considering all the relevant facts, if the tribunal is satisfied that a case for reduction in the wage structure has been established then it would be open to the tribunal to accede to the request of the employer to make appropriate reduction in the wage structure, subject to such conditions as to time or otherwise that the tribunal may deem fit or expedient to impose. The tribunal must also keep in mind some important practical considerations. Substantial reduction in the wage structure is likely to lead to discontent among workmen and may result in disharmony between the employer and his employees; and that would never be for the benefit of the industry as a whole. On the other hand, in assessing the value or importance of possible discontent amongst workmen resulting from the reduction of wages, industrial tribunals will also have to take into account the fact that if any industry is burdened with a wage structure beyond its financial capacity, its very existence may be in jeopardy and that would ultimately lead to unemployment. It is thus clear that in all such cases all relevant considerations have to be carefully weighed and an attempt has to be made in each case to reach a conclusion which would be reasonable on the merits and would be fair and just to both the parties. It would be interesting to notice in this connection that all the tribunals that have dealt with the present dispute have consistently directed that existing wages should not be reduced to the prejudice of the workmen. In other words, though each tribunal attempted to constitute a wage structure in the light of materials furnished to it, a saving clause has been added every time protecting the interests of such workmen as were drawing higher wages before. Even so, it would not be right to hold that there is a rigid and inexorable convention that the wage structure once fixed by industrial tribunals can never be changed to the prejudice of workmen. In our opinion, therefore, the point raised by Mr. Sen must be answered in his favour subject to such relevant considerations and limitations as we have briefly indicated."

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